

## THE AGE-VERIFIED TRIBAL ONLINE AND IN-PERSON SPORTS WAGERING REGULATORY ACT

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends a section of the California Constitution, adds sections to the Business and Professions Code and Government Code, and provides for a Model Form Sports Wagering Compact Amendment that tribes may elect to adopt consistent with terms of this measure. Existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type*.

### SECTION 1. TITLE

This measure shall be known as the "The Age-Verified Tribal Online and In-Person Sports Wagering Regulatory Act" (the "Act").

### SECTION 2. FINDINGS AND DECLARATIONS

(a) In 1988, U.S. federal law known as the Indian Gaming Regulatory Act ("IGRA") established the jurisdictional framework that governs Indian gaming. The goals of federal Indian policy that IGRA was enacted to promote include tribal economic development, tribal self-sufficiency, and strong tribal governments. Under IGRA, the federal government provided a framework for states and tribes to find common ground and to work together to generate funding for programs to promote the welfare of Native Americans and their surrounding communities by means of regulated forms of Indian gaming. With this in mind, in 2000, Californians amended the State Constitution to entrust tribal governments with the primary responsibility for conducting casino-style gaming.

(b) For decades federally recognized California tribal governments have operated Indian gaming casinos on their own tribal lands pursuant to IGRA and tribal-state agreements, known as "compacts," generating much-needed resources to help reverse the brutal history endured by California Native Americans. These resources have allowed many California tribes to provide critical funding to support much-needed services including healthcare, schools, scholarships, cultural resources protection, fire services, law enforcement services, water systems, environmental protection, and more, not only for their own tribal community members' benefit but also for the benefit of their neighbors in surrounding counties, cities, and towns. The policies of California tribes and the State to protect and assist those in economically disadvantaged circumstances undoubtedly have been advanced by a well-regulated tribal gaming industry. In the last 20 years, federally recognized California tribes have shared more than \$1 billion in gaming revenues with Non-Gaming Tribes and Limited Gaming Tribes (as such terms are defined in this Act), to assist tribal governments lacking the opportunity to prosper from in-person Indian gaming.

(c) Communities throughout California have benefited from Indian gaming. For example, in just one year (2016), Indian gaming in California directly and indirectly generated 124,300 jobs, \$20 billion in output, \$9 billion in wages to employees, and \$3.4 billion in taxes and revenue sharing payments to federal, state, and local governments, including nearly \$1 billion to the State of California and \$378 million to local governments.

(d) Despite these accomplishments, the future of gaming now increasingly appears to be moving towards the use of online-based platforms and mobile devices with internet connectivity.

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Out-of-state and international gaming operators seek to rewrite the commitment California voters made to California tribes, which have invested over thirty years in developing a regulated gaming structure in California so both tribes and communities would flourish. Now, these out-of-state operators scheme to pay only a pittance to address serious local and statewide social problems that revenues from Indian-operated gaming have sought to address, while intentionally seeking to deprive all California tribes of the opportunity to avail themselves of the future growth opportunities afforded by technological advances anticipated by IGRA, which also holds the promise of fostering economic development by Non-Gaming Tribes and Limited Gaming Tribes.

(e) In addition, unregulated and untaxed sports wagering is already happening throughout California without any responsible consumer protections. Leading economists and industry experts estimate a thriving black market on sports wagering accounts for billions of dollars of illegal betting occurring annually across the United States. The illegal sports wagering market in California continues to thrive and remains a risky option for unwary consumers due to its unregulated, unlicensed, and untaxed nature. Unregulated gambling enterprises are a threat to public safety and public health as they are prone to attracting criminal elements. A well-regulated sports wagering system would include such measures as restrictions on branding used by operators and affiliated entities for online sports wagering, to ensure sufficient disclosure of information to provide consumer confidence in the legitimacy of the games offered and the operators offering them, as well as to assist regulators in preventing the offering, operation, and play of illegal games.

(f) No person in the State has a right to operate a gambling enterprise except as expressly permitted by federal, state, or local law. In May 2018, the United States Supreme Court eliminated the federal prohibition on sports wagering. States now have the freedom to authorize sports wagering within their borders and establish regulations, consumer protections, and responsible gambling measures on sports wagering. More than 30 states have chosen to allow sports wagering in a manner that provides for consumer protections and responsible gambling, giving adults the ability to choose to participate in this activity.

(g) A well-supervised sports wagering system for California must limit sports wagering only to highly regulated, suitable operators experienced in gambling operations, with a proven record of regulatory compliance in the California gaming market. The most trusted entities to safely operate sports wagering in California are Indian tribal governments who have decades of accumulated experience operating in-state gaming casinos. Allowing Indian tribal governments to operate online and in-person sports wagering preserves the federal and California commitment to redressing historic harms and promoting the welfare of tribal peoples and their California-resident neighbors. Any regulations regarding such activity must be carefully crafted to maximize benefits to Californians, both Indian and non-Indian, while mitigating possible harms.

(h) Online and in-person sports wagering must be well-regulated by Indian tribes, the federal government, and the State of California, to stamp out the black market of illegal gambling operations and to allow adults, whose age-eligibility has been verified in person, the choice to participate in this activity with strong consumer protections.

(i) Indeed, in keeping with our Californian and tribal values of protecting children and young people, sports wagering must be limited to only adults 21 years old or older. Existing law recognizes that gambling is not an activity to be promoted or legitimized as entertainment for children. No advertising or marketing of sports wagering should be directed to children, and adults

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should be required to register in-person to ensure that only adults 21 years old and older have access to make sports wagers online.

(j) Only Californians verified as 21 years of age or older should have the choice to participate in legal sports wagering offered by highly regulated tribal operators experienced in gaming operations and in good standing with applicable tribal, federal, and state regulatory agencies.

(k) Sports wagering on high school and lower-level school sports or athletic events must be strictly prohibited.

(l) To prevent the exploitation of animals, sports wagering should not be allowed on any currently prohibited form of animal contests, such as greyhound or other dog races.

(m) Online and in-person gaming in California should provide a revenue stream to improve the lives of Californians, Native and non-Native. Among the most pressing social and economic problems faced by Native Americans and residents of California are the crisis of homelessness and accessibility to affordable mental health care.

(n) Leading economists and industry experts estimate that a legal and regulated sports wagering market in California could generate billions of dollars in economic activity even in the initial years, which, if operated by tribes within the State, would result in hundreds of millions of dollars in annual revenue for the State of California in the form of tax payments from employees and California companies conducting business with tribal gaming operations and in the form of direct payments by the tribes to continue the tradition and objective of improving the lives of Native Americans and other Californians through earmarking monies for programs addressing homelessness and mental health.

(o) To this end, the Age-Verified Tribal Online and In-Person Sports Wagering Regulatory Act ensures that online sports wagering is regulated so that age-verified adults can legally participate in this activity and a portion of revenues will be earmarked revenue for a new California Homelessness and Mental Health Fund.

(p) In addition to direct payments by tribes to the State dedicated for programs to address homelessness and mental health among Native Americans and other Californians, authorized sports wagering will generate new revenue for Non-Gaming Tribes and Limited-Gaming Tribes through the creation of a Tribal Sports Wagering Revenue Sharing Trust Fund, which would send a portion of the revenue directly to Non-Gaming Tribes and Limited-Gaming Tribes to be used for essential governmental services.

(q) By authorizing the conduct of online sports wagering by federally recognized California tribes in the manner provided herein, the Age-Verified Tribal Online and In-Person Sports Wagering Regulatory Act will give Non-Gaming Tribes and Limited-Gaming Tribes the opportunity to directly participate in online sports wagering or to receive benefits from operations by other tribes, either by such tribes' contributions to the Tribal Sports Wagering Revenue Sharing Trust Fund that are then distributed to Non-Gaming Tribes and Limited-Gaming Tribes, or by partnerships between those tribes that offer and those that do not offer such sports wagering.

(r) By authorizing the conduct of sports wagering by federally recognized California tribes in the manner specified herein, the Age-Verified Tribal Online and In-Person Sports Wagering Regulatory Act will create employment opportunities for Native Americans and other Californians

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as well as related in-state economic benefits from the increased purchases of goods and services from California businesses, including increased payroll, sales, and other tax revenues for state and local governments.

(s) By approving the Age-Verified Tribal Online and In-Person Sports Wagering Regulatory Act, Californians will provide for strict regulation on tribally operated online and in-person sports wagering in California which will generate much-needed funding for tribal governmental services to address continuing social/economic problems facing Native Americans and other Californians, such as homelessness and mental health challenges.

### **SECTION 3. PURPOSES AND INTENT**

The purpose of the Age-Verified Tribal Online and In-Person Sports Wagering Regulatory Act is to regulate online and in-person sports wagering in California to generate much-needed funding for governmental services to tribal communities to address continuing social/economic problems facing Native Americans and other Californians, such as homelessness and mental illness, by:

(a) Regulating sports wagering to take it out of the black market, creating a regulatory structure that prevents minors from placing wagers, and protecting public safety by allowing sports wagering only at highly regulated and safe in-person tribal facilities and online sports wagering platforms, each with substantial experience in gaming operations.

(b) Permitting tribal governments to offer in-person roulette, games played with dice, and online and in-person sports wagering pursuant to compacts with the State of California as required by federal law, as tribal governments have expertise in gaming operations and possess the financial resources to responsibly operate such gaming.

(c) Ensuring that these facilities and operators are in good standing with the appropriate tribal, federal, and state regulatory agencies.

(d) Creating strict consumer protections to promote responsible sports wagering and protect children and public health, such as:

(1) Only permitting sports wagering by those 21 years of age or older to safeguard against underage gambling.

(2) Requiring adults 21 years of age or older to register in-person to take part in online sports wagering.

(3) Prohibiting the marketing and advertising of sports wagering to persons younger than 21 years old.

(4) Permitting sports wagering only on professional, college, or amateur sports or athletic events, excluding high school and lower-level school sports or athletic events.

(5) Prohibiting wagering on any high school and lower-level school sports or athletic events.

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(6) Prohibiting wagering on any currently illegal sporting event or contest, including, but not limited to, animal races, such as greyhound or other dog races, to prevent the exploitation of animals.

(7) Allowing appropriate tribal and state regulatory bodies to enact measures to implement the above protections.

(e) Providing new sources of revenue to Limited Gaming Tribes and Non-Gaming Tribes in California to help strengthen tribal governments.

(f) Providing new sources of revenue to tribes and California communities to help address homelessness and mental health throughout California by the establishment of the California Homelessness and Mental Health Fund.

(g) Providing a meaningful concession as a matter of applicable federal law to each tribe, beyond the State's current legal obligations under federal law regarding tribal gaming operations, by amending the California State Constitution to allow only federally recognized tribes to offer online and in-person sports wagering in exchange for a tribe's execution of either: (i) the Model Form Sports Wagering Compact Amendment, pursuant to terms provided by law, and which upon approval by the federal government, legally binds the signing tribe to contribute fifteen percent (15%) of its Adjusted Sports Wagering Gross Gaming Revenue into the Tribal Sports Wagering Revenue Sharing Trust Fund, and to contribute ten percent (10%) of its Adjusted Sports Wagering Gross Gaming Revenue into the California Homelessness and Mental Health Fund, or (ii) an otherwise negotiated and State-approved compact or compact amendment. "Adjusted Sports Wagering Gross Gaming Revenue" is defined as the total of all sports wagers placed, less the total of all monies paid out as winnings to bettors, less all federal excise taxes, and less all sports wagers made with free bets or promotional gaming credits. The deduction for sports wagers made with free bets or promotional gaming credits shall be limited to fifteen percent (15%) of the total of all sports wagers placed less the total of all monies paid out as winnings to bettors.

(1) The Model Form Sports Wagering Compact Amendment, as an enactment of the people of California, is deemed approved and ratified by the State of California. No further action by the State or any State official is necessary for the Model Form Sports Wagering Compact Amendment to be submitted by the tribe to the United States Secretary of the Interior (the "Secretary of the Interior") and to take effect upon approval, or deemed approval, by the Secretary of the Interior and publication in the Federal Register.

(2) A tribe that seeks to operate sports wagering but chooses not to execute the Model Form Sports Wagering Compact Amendment, shall be required to negotiate, and have mutually executed, a compact or compact amendment with the Governor of California that is subsequently ratified by the California Legislature and approved by the federal government before the tribe may offer online or in-person sports wagering, as well as in-person roulette or games played with dice.

(3) Nothing herein is intended to prevent those tribes currently operating under duly promulgated procedures prescribed by the Secretary of the Interior pursuant to 25 U.S.C. § 2710(d)(7)(b)(vii) or any successor statute thereto ("Secretarial Procedures") in lieu of Tribal-State Compacts from securing amendments to such Secretarial Procedures that allow them to offer online and in-person sports wagering, as well as in-person roulette and games played with dice, in the same manner as compacted tribes.

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- (h) Auditing expenditures of sports wagering revenue to ensure that revenue is spent properly and effectively.
- (i) Ensuring that establishments that offer legal sports wagering play by the rules by making them subject to appropriate audit standards.

### SECTION 4. AMENDMENT OF CALIFORNIA CONSTITUTION, ARTICLE IV, SECTION 19:

Section 19 of Article IV of the California Constitution is amended to read:

#### SEC. 19.

- (a) The Legislature has no power to authorize lotteries, and shall prohibit the sale of lottery tickets in the State.
- (b) The Legislature may provide for the regulation of horse races and horse race meetings and wagering on the results.
- (c) Notwithstanding subdivision (a), the Legislature by statute may authorize cities and counties to provide for bingo games, but only for charitable purposes.
- (d) Notwithstanding subdivision (a), there is authorized the establishment of a California State Lottery.
- (e) The Legislature has no power to authorize, and shall prohibit, casinos of the type currently operating in Nevada and New Jersey.
- (f)
  - (1) Notwithstanding subdivisions (a) and (e), and any other provision of state law, the Governor is authorized to negotiate and conclude compacts, subject to ratification by the Legislature, *or the people by initiative may approve a model form compact or compact amendment that when signed by a federally recognized Indian tribe is deemed approved and ratified by the State*, for the operation of slot machines and for the conduct of lottery games, and banking and percentage card games, *roulette, games played with dice, and online and in-person sports wagering* by federally recognized Indian tribes on Indian lands in California in accordance with federal law. Accordingly, slot machines, lottery games, banking and percentage card games, *roulette, games played with dice, and online and in-person sports wagering* are hereby permitted to be conducted and operated on *tribal Indian lands and solely by those Indian tribes* subject to those compacts *(or duly promulgated procedures prescribed by the United States Secretary of the Interior ("Secretary of the Interior") pursuant to 25 U.S.C. § 2710(d)(7)(b)(vii) or any successor statute thereto ("Secretarial Procedures"), in lieu of Tribal-State compacts)*.
  - (2) *The State of California provides a meaningful concession as a matter of applicable federal law to each federally recognized Indian tribe, beyond the State's current legal obligations under federal law regarding tribal gaming operations, by allowing only federally recognized tribes to offer online and in-person sports wagering in exchange for a tribe's execution of either (i) the Model Form Sports Wagering Compact Amendment, as set forth in Section 98100 of Chapter 2 of Title 16 of the Government Code, and which upon approval, or deemed approval, by the federal government, legally binds the signing tribe to contribute fifteen percent (15%) of its Adjusted Sports Wagering Gross Gaming Revenue into the Tribal Sports Wagering Revenue Sharing Trust Fund, and to contribute ten percent (10%) of its Adjusted Sports Wagering Gross Gaming*

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*Revenue into the California Homelessness and Mental Health Fund, or (ii) an otherwise negotiated and State-approved compact or compact amendment. "Adjusted Sports Wagering Gross Gaming Revenue" is defined as the total of all sports wagers placed, less the total of all monies paid out as winnings to bettors, less all federal excise taxes, and less all sports wagers made with free bets or promotional gaming credits. The deduction for sports wagers made with free bets or promotional gaming credits shall be limited to fifteen percent (15%) of the total of all sports wagers placed less the total of all monies paid out as winnings to bettors.*

*(A) The Model Form Tribal Sports Wagering Compact Amendment, as an enactment of the people of California, is deemed approved and ratified by the State of California. No further action by the State or any State official is necessary for the Model Form Sports Wagering Compact Amendment to be submitted by the tribe to the Secretary of the Interior and to take effect upon approval, or deemed approval, by the Secretary of the Interior and publication in the Federal Register.*

*(B) Prior to September 1, 2027, any tribe with an existing gaming compact in effect may execute and submit the Model Form Sports Wagering Compact Amendment to the Secretary of the Interior. The tribe shall provide a copy of the executed Model Form Sports Wagering Compact Amendment to the Governor.*

*(C) Any tribe that seeks to conduct or operate sports wagering but chooses not to execute the Model Form Sports Wagering Compact Amendment, or any tribe that has not executed the Model Form Sports Wagering Compact Amendment prior to September 1, 2027, shall require a compact or compact amendment negotiated and mutually executed with the Governor, and subsequently ratified by the Legislature, and approved, or deemed approved, by the federal government before it may offer online or in-person sports wagering.*

*(3) References in this Section 19 to a Tribal-State gaming compact shall be deemed to include duly promulgated Secretarial Procedures in lieu of a Tribal-State compact. Nothing herein is intended to prevent those tribes currently operating under Secretarial Procedures in lieu of Tribal-State compacts from securing amendments to such Secretarial Procedures that allow them to conduct or operate online or in-person sports wagering in the same manner as tribes with Tribal-State compacts in effect.*

*(4) Players physically located within the external boundaries of the State of California but outside of Indian lands are authorized to place sports wagers using an internet website or application on a personal computer, mobile device, remote terminal, or other electronic device with an internet connection ("online sports wagering"), and such wagering shall be deemed to be offered, originated, accepted, and otherwise take place exclusively where received at the location of the servers or other devices used to conduct or operate such wagering activity at a tribal gaming facility located on the Indian lands of the tribe offering such sports wagering.*

*(5) In exchange for the exclusive rights granted under this subdivision (f) to conduct or operate online sports wagering in the manner specified herein, and as part of the allocation of criminal and civil jurisdiction between the tribe and State necessary for the enforcement of laws directly related to the regulation of Indian gaming, the tribe shall:*

*(A) except as provided in this subdivision and in accordance with subparagraph (E) below, at all times offer only one individually branded sports wagering website,*

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*which may have an accompanying mobile application that must bear the same unique brand as the website;*

(B) *at all times remain the sole authorized operator subject to applicable federal law, including, but not limited to, 25 U.S.C. §§ 2702(2), 2710(b)(2)(A), 2710(d)(4), and 2711(c)(2) and 25 C.F.R. §§ 522.4(b)(1), 522.6(c), and 533.3(g);*

(C) *not grant any ownership or lease interest in or transfer any rights attendant to such authorization;*

(D) *ensure that players shall be required to register an account for purposes of such online sports wagering in person at a gaming facility located on the compacting tribe's Indian lands within the external boundaries of California ("Operator Tribe"), or on the Indian lands of another federally recognized tribe within the external boundaries of California that is not otherwise offering online sports wagering and with whom a compacting tribe has contracted to establish such accounts ("Registration Affiliate Tribe"). If a contract provides for a Registration Affiliate Tribe to establish player accounts for players to access an Operator Tribe's online sports wagering platform by means of the Operator Tribe's own brand(s) and software, such contract shall require the Operator Tribe to compensate the Registration Affiliate Tribe with a payment of an amount not less than ten percent (10%) of the difference between: (i) the Adjusted Sports Wagering Gross Gaming Revenue earned by the Operator Tribe on all wagering by players who established their accounts on the Registration Affiliate Tribe's Indian lands and (ii) a reasonable or proportionate share of the expenses of the Operator Tribe in operating and conducting such wagering by players who established their accounts on the Operator Tribe's Indian lands, including, but not limited to, amounts contributed to the Tribal Sports Wagering Revenue Sharing Trust Fund and the California Homelessness and Mental Health Fund.*

(E) *brand all sports wagering operations exclusively under (i) the tribe's federally recognized name, pursuant to notice by the United States Bureau of Indian Affairs, as published in the Federal Register, (ii) any brand, including, but not limited to, trademark-registered and trademark-pending brands, actually used by the tribe as the publicly marketed name or brand of the tribe or its casino as of October 1, 2021, or (iii) the name or brand, including, but not limited to, trademark-registered and trademark-pending brands, of any entity that is wholly owned by the tribe. For the avoidance of doubt, clauses (i) and (iii) shall not permit any brand, co-brand, or otherwise derivative brand of a company engaged in sports wagering or online gaming operations in the United States whose ultimate parent company is not wholly owned by the tribe using such brand. For purposes of this section, the term "brand" shall mean any identifying mark of the tribe's gaming operation, including, but not limited to, a name, DBA, logo, trademark, service mark, design, or color scheme.*

(F) *at all times that a tribe ("Hub Tribe") is offering online sports wagering, it may contract with any and all other federally recognized tribes with Indian lands in California who are not otherwise offering online sports wagering ("Spoke Tribe") to perform marketing and similar services for the Hub Tribe's online sports wagering operation(s). If a contract provides for players to access a Hub Tribe's online sports wagering platform by means of software that uses a brand of a Spoke Tribe, such contract shall require the Hub Tribe to compensate the Spoke Tribe(s) with a payment of an amount not less than fifty percent (50%) of the difference between: (i) the Adjusted Sports Wagering Gross Gaming Revenue earned by the Hub Tribe on all such wagering made through the Spoke Tribe's branded software and (ii) a reasonable or proportionate share of*



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*the expenses of the Hub Tribe in operating and conducting such wagering by players who access the Hub Tribe's Mobile Sports Wagering platform via software that uses a brand of the Spoke Tribe, including, but not limited to, amounts contributed to the Tribal Sports Wagering Revenue Sharing Trust Fund and the California Homelessness and Mental Health Fund. For the avoidance of doubt, subparagraph (E) immediately above shall apply to Spoke Tribes performing marketing and similar services on behalf of Hub Tribes.*

(G) *Offer sports wagering no earlier than September 1, 2023.*

*(g) Notwithstanding subdivisions (a) and (e), and any other provision of state law, online sports wagering by Indian tribes, and entities wholly owned by Indian tribes, pursuant to section 22949.60 of Chapter 38 of Division 8 of the Business & Professions Code is hereby authorized by this Section 19. Nothing herein shall be interpreted to authorize any entities other than federally recognized Indian tribes, and entities wholly owned by federally recognized Indian tribes, to offer games off of Indian lands that would otherwise violate subdivisions (a) and (e).*

*(f)(h) Notwithstanding subdivision (a), the Legislature may authorize private, nonprofit, eligible organizations, as defined by the Legislature, to conduct raffles as a funding mechanism to provide support for their own or another private, nonprofit, eligible organization's beneficial and charitable works, provided that (1) at least 90 percent of the gross receipts from the raffle go directly to beneficial or charitable purposes in California, and (2) any person who receives compensation in connection with the operation of a raffle is an employee of the private nonprofit organization that is conducting the raffle. The legislature, two-thirds of the membership of each house concurring, may amend the percentage of gross receipts required by this subdivision to be dedicated to beneficial or charitable purposes by means of a statute that is signed by the Governor.*

*(i) (1) For the purposes of this Section 19, "sports wagering" or "sports wagers" shall mean, respectively, wagering or wagers on the results or any portion or aspect of any professional, collegiate, or amateur sport or athletic event, except that sports wagering or sports wagers shall not mean, respectively, wagering or wagers on the results or any portions or aspects of:*

(A) *Any high school and lower-level school sport or athletic event;*

(B) *Horse races and horse race meetings and wagering on the results as authorized by subdivision (b) and statutes promulgated pursuant to that subdivision;*

(C) *Any form of animal contests, such as greyhound or other dog races, prohibited under state law as of September 1, 2021; and*

(D) *Any sport or athletic event that has already been completed. Further, the outcome, including, but not limited to, the redemption of winnings, from any sport or athletic event or horse race in progress at or after the time a wager has been placed shall not be displayed or represented in a manner that mimics a slot machine or any other casino-style game, including, but not limited to, blackjack, roulette, or craps.*

(2) *The Legislature, or the people by initiative, may enact laws necessary to further the purposes of this subdivision.*

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(j) The "Tribal Sports Wagering Revenue Sharing Trust Fund" is a fund hereby created in the State Treasury. The Tribal Sports Wagering Revenue Sharing Trust Fund shall be administered by the State Gaming Agency that, as limited trustee, is not a trustee subject to the duties and liabilities contained in the California Probate Code, similar state or federal statutes, rules or regulations, or under state or federal common law or equitable principles, and has no duties, responsibilities, or obligations hereunder except for the receipt, deposit, and distribution of monies paid by tribes operating online sports wagering for the benefit of Non-Gaming Tribes and Limited-Gaming Tribes. All funds paid by tribes pursuant to either the Model Form Sports Wagering Compact Amendment or otherwise agreed to by tribes in new or amended compacts intended for the Tribal Sports Wagering Revenue Sharing Trust Fund shall be paid into such Fund. The State Gaming Agency shall allocate and disburse the Tribal Sports Wagering Revenue Sharing Trust Fund monies on a quarterly basis as specified by the Legislature. Subject to subdivision (k), monies from the Tribal Sports Wagering Revenue Sharing Trust Fund shall be distributed to all eligible tribes, meaning Non-Gaming Tribes and Limited Gaming Tribes, in equal shares, pro-rata. Monies deposited into the Tribal Sports Wagering Revenue Sharing Trust Fund shall not be used for purposes other than as specified in this subdivision. In no event shall the State's General Fund be obligated to pay any unpaid claims connected therewith.

(1) For purposes of this subdivision:

(A) A "Non-Gaming Tribe" is a federally recognized tribe in California with or without a Tribal-state Class III Gaming Compact or Secretarial Procedures that has not engaged in, or offered, Class II Gaming or Class III Gaming in any location, whether within or without California, as of the date of distribution to such tribe from the Tribal Sports Wagering Revenue Sharing Trust Fund and during the immediately preceding three hundred sixty-five (365) days.

(B) A "Limited-Gaming Tribe" is a federally recognized tribe in California that has a Class III Gaming Compact with the State or Secretarial Procedures, but is operating fewer than a combined total of three hundred fifty (350) Gaming Devices in all of its gaming operations wherever located, or does not have a Class III Gaming Compact or Secretarial Procedures but is engaged in Class II Gaming, whether within or without California, as of the date of distribution to such tribe from the Tribal Sports Wagering Revenue Sharing Trust Fund or during the immediately preceding three hundred sixty-five (365) days.

(C) "State Gaming Agency" means the entities authorized to investigate, approve, regulate and license gaming pursuant to the Gambling Control Act (chapter 5 (commencing with section 19800) of division 8 of the California Business and Professions Code), or any successor statutory scheme, and any entity or entities in which that authority may hereafter be vested.

(D) Monies in the Tribal Sports Wagering Revenue Sharing Trust Fund shall not be borrowed, loaned, or otherwise transferred to the General Fund or other fund in the State Treasury. Monies deposited into the Fund, and any account within the Fund, including, but not limited to, any interest earned thereon, shall only be used for the specific purposes set forth in this measure. No action shall be taken that permanently or temporarily changes the status of the Fund as a trust fund, or borrows, diverts, or appropriates the monies in the Fund in a manner inconsistent with this measure.

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(2) *Every two years, the Controller shall conduct an audit of the Tribal Sports Wagering Revenue Sharing Trust Fund to ensure the funds are disbursed and expended solely according to this article and shall report its findings to the Legislature and the public.*

(k) *The “California Homelessness and Mental Health Fund” is a fund hereby created in the State Treasury. The California Homelessness and Mental Health Fund shall be administered by the State Gaming Agency that, as limited trustee, is not a trustee subject to the duties and liabilities contained in the California Probate Code, similar state or federal statutes, rules or regulations, or under state or federal common law or equitable principles, and has no duties, responsibilities, or obligations hereunder except for the receipt, deposit, and distribution of monies paid by tribes into the Fund. All funds paid by tribes pursuant to either the Model Form Sports Wagering Compact Amendment or otherwise agreed to by tribes in new or amended compacts intended for the California Homelessness and Mental Health Fund shall be paid into such Fund.*

(1) *The State Gaming Agency shall allocate and disburse the California Homelessness and Mental Health Fund monies on a quarterly basis as specified by the Legislature, consistent with the following:*

(A) *The Fund shall first be used for the reimbursement of or payment for only those actual and reasonable costs incurred by the State in the direct performance of its obligations to regulate and oversee sports wagering activities, including, but not limited to, reimbursement of the Indian Gaming Special Distribution Fund as required by law. The annual appropriation of the Fund shall be clearly sufficient to ensure that the State Gaming Agency is adequately staffed, that online sports wagering is adequately regulated, and that the purposes of this measure are being faithfully carried into effect.*

(B) *Remaining funds shall be used for those programs designed to address homelessness and mental health, such as by delivering permanent and interim housing, including, but not limited to, rental assistance, supportive services, and operating subsidies or reserves for people experiencing homelessness who need access to mental health services, substance use disorder treatment and service enhanced housing, as determined by the Legislature.*

(C) *Monies in the Fund shall not be borrowed, loaned, or otherwise transferred to the General Fund or other fund in the State Treasury. Monies deposited into the Fund, and any account within the Fund, including, but not limited to, any interest earned thereon, shall only be used for the specific purposes set forth in this measure. No action shall be taken that permanently or temporarily changes the status of the Fund as a trust fund, or borrows, diverts, or appropriates the monies in the Fund in a manner inconsistent with this measure.*

(2) *Every two years, the Controller shall conduct an audit of the California Homelessness and Mental Health Fund to ensure the funds are disbursed and expended solely according to this article and shall report the findings to the Legislature and the public.*

(3) *The funding and Fund described in this subdivision shall not be used to supplant existing state or local funds utilized to combat homelessness and mental illness.*

### **SECTION 5. SPORTS WAGERING REGULATION**

Chapter 4.6 (commencing with Section 19710) is added to Division 8 of the Business and Professions Code, to read:

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### *Chapter 4.6. Sports Wagering Age, Advertising, and Audit Requirements.*

#### *19710. Age Limit for Sports Wagering.*

- (a) A person under 21 years of age shall not place sports wagers on, be allowed to place sports wagers on, or collect, whether personally or through an agent, sports wagering winnings from any sport or athletic event.*
- (b) A person under 21 years of age shall not present or offer any written, printed, photostatic, or other evidence or certification of age or identity that is false, fraudulent, or not actually their own for the purpose of placing sports wagers.*
- (c) Any person under 21 years of age who violates this section is guilty of a misdemeanor.*
- (d) Any person 21 years of age or older is expressly authorized by California law to place wagers on sporting events by means of an internet connection to servers located on Indian lands, provided that such person is physically located within the external boundaries of the State of California at the time of making such wager, and provided that, if the person is located on Indian lands at the time of making such wager, the tribe exercising jurisdiction over such lands has authorized such wagering.*

#### *19711. Prohibition Of Marketing and Advertising Sports Wagering Directed to Minors.*

- (a) For purposes of this section:*

- (1) "Advertise" means the publication or dissemination of an advertisement.*
- (2) "Advertisement" includes any written or verbal statement, illustration, or depiction which is calculated to promote sports wagering, including, but not limited to, any written, printed, graphic, or other material, billboard, sign, or other outdoor display, public transit card, other periodical literature, publication, or in a radio or television broadcast, or in any other media. This term shall not include any editorial or other reading material, such as a news release, in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any facility operating sports wagering, and which is not written by or at the direction of the facility operating sports wagering.*
- (3) "Market" or "Marketing" means any act or process of promoting sports wagering, including, but not limited to, sponsorship of sporting events, point-of-sale advertising, and development of products specifically designed to appeal to certain demographics.*
- (b) Any advertising or marketing placed in broadcast, cable, radio, print, and digital communications shall only be directed where the audience is reasonably expected to be predominantly 21 years of age or older, as determined by reliable, up-to-date audience composition data.*
- (c) Any advertising or marketing involving direct, individualized communication or dialogue controlled by an operator of sports wagering or service provider to such an operator shall utilize a method of age affirmation to verify that the recipient is 21 years of age or older before engaging in that communication or dialogue controlled by the operator of sports wagering. For purposes of*

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*this subdivision, that method of age affirmation may include user confirmation, birth date disclosure, or other similar registration method.*

(d) *An operator of sports wagering or service provider to such an operator shall not:*

(1) *Advertise or market sports wagering in a manner intended to encourage persons under 21 years of age to participate in sports wagering.*

(2) *Publish or disseminate advertising or marketing that is attractive to children.*

*19712. Audit for Sports Wagering Facilities.*

(a) *The State Gaming Agency shall perform all investigatory and auditing functions over operators of sports wagering, unless otherwise provided in a Tribal-State Compact, or under duly promulgated procedures prescribed by the United States Secretary of the Interior pursuant to 25 U.S.C. § 2710(d)(7)(b)(vii) or any successor statute thereto, in effect.*

(b) *“State Gaming Agency” means the entities authorized to investigate, approve, regulate and license gaming pursuant to the Gambling Control Act (chapter 5 (commencing with section 19800) of division 8 of the California Business and Professions Code), or any successor statutory scheme, and any entity or entities in which that authority may hereafter be vested.*

### **SECTION 6. MODEL FORM SPORTS WAGERING COMPACT AMENDMENT**

SEC 6.1. Chapter 2 (commencing with Section 98100) is added to Title 16 of the Government Code, to read as follows:

*Chapter 2. Tribal-State Compact Amendments Governing Online and In-Person Sports Wagering.*

*98100. Model Form Sports Wagering Compact Amendment.*

*Pursuant to section 19 of Article IV of the California Constitution, the State of California hereby offers to any federally recognized Indian tribe that is recognized by the Secretary of the Interior as having jurisdiction over Indian lands in California that are eligible for gaming under the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701 et seq., and any such tribe may request, and enter into with the State, a gaming compact amendment containing the following terms and conditions:*

#### **MODEL FORM SPORTS WAGERING COMPACT AMENDMENT**

This Model Form Sports Wagering Compact Amendment is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_, by and between the [\_\_\_\_\_] (“Tribe”), a federally recognized Indian tribe exercising governmental authority over certain Indian lands located within the boundaries of the State of California (“State”), and is made pursuant to the Indian Gaming Regulatory Act, 18 U.S.C. §§ 1166-1168, 25 U.S.C. §§ 2701-2721 (“IGRA”).

WHEREAS, the people of the State of California approved online and in-person Sports Wagering, Roulette and Games Played with Dice pursuant to “The Age-Verified Tribal Online and In-Person Sports Wagering Regulatory Act,” which provides for California Indian Tribes to have the option of executing this Model Form Sports Wagering Compact Amendment (“Model Form

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Amendment”) or requesting the State of California to negotiate a Tribal-State Compact or Compact Amendment; and

WHEREAS, the Tribe and the State entered into the Tribal-State Compact Between the State of California and the Tribe, dated \_\_\_\_\_, [Year] ([Year] Compact), which is now in effect, and the parties now desire to enter into this Model Form Amendment for Sports Wagering, Roulette and Games Played with Dice to be conducted by the Tribe on its Indian lands; and

WHEREAS, in consideration of the meaningful concession of providing California Indian Tribes with exclusive rights to engage in Sports Wagering, Roulette and Games Played with Dice as specified in this Model Form Amendment, the Tribe intends to provide to the State, on a sovereign-to-sovereign basis, fair cost reimbursement of actual and reasonable costs of regulatory oversight, contributions to State programs for homelessness and mental health, and contributions to Non-Gaming Tribes and Limited Gaming Tribes (as defined in subdivision (i) of Section 19 of Article IV of the California Constitution) from revenues from Sports Wagering, Roulette and Games Played with Dice offered pursuant to this Model Form Amendment; and

WHEREAS, the Tribe and the State agree that all provisions of the [Year] Compact shall remain in full force and effect and control the licensing, public health and safety, environmental, and other provisions related to the Tribe’s Gaming Facility, and shall continue to apply to applicable matters authorized by this Model Form Amendment, except to the extent that there are more specific provisions in this Model Form Amendment, in which case such provisions in this Model Form Amendment shall control; and

WHEREAS, Sports Wagering, Roulette and Games Played With Dice are class III gaming activities under IGRA; and

WHEREAS, the Tribe has duly enacted a Tribal Ordinance, approved by the National Indian Gaming Commission, which permits such gaming activities on and within the Tribe’s Indian lands if conducted in conformity with an applicable tribal-state compact; and

WHEREAS, the Tribe and the State each recognize the sovereign authority and interests of the other in regulating gaming activities within their respective areas of jurisdiction and in ensuring that Sports Wagering is conducted fairly, honestly, professionally, and in a manner that is consistent with and promotes the California gaming industry; and

WHEREAS the Tribe and State agree to allocate jurisdiction, as permitted by IGRA, such that Sports Wagers placed using a Mobile Device by adults who are physically located within the State but not on the Tribe’s Indian lands shall be deemed to be offered, originated, accepted, and otherwise take place exclusively where received at the location of the servers and related devices used to conduct Sports Wagering at a Gaming Facility on the Tribe’s Indian lands; and

WHEREAS, the parties hereto deem it to be in their respective best interests to enter into this Model Form Amendment for the purposes set forth herein; and

WHEREAS, once executed by the Tribe, this Model Form Amendment shall be deemed approved and ratified by the State of California;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the parties agree as follows:

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**SECTION 1 DEFINITIONS.** Except as otherwise set forth herein or where the context otherwise requires, the terms employed in this Model Form Amendment shall have the same meanings ascribed to them in the [Year] Compact, as they may be modified or amended from time to time during the term of this Model Form Amendment. Whenever reference to the [Year] Compact is made in this Model Form Amendment, that reference shall be understood to also include any class III gaming compact between the Tribe and the State to amend or replace the [Year] Compact that may hereafter be entered into.

“Adjusted Sports Wagering Gross Gaming Revenue” has the meaning set forth in subdivision (f) of Section 19 of Article IV of the California Constitution, including but not limited to the provision specifying that the deduction for sports wagers made with free bets or promotional gaming credits shall be limited to fifteen percent (15%) of the total of all sports wagers placed less the total of all monies paid out as winnings to bettors.

“Authorized Sports Wagering Menu” means the list of leagues, organizations, and types of wagers approved for Sports Wagering.

“Games Played With Dice” means games such as craps that use one or more dice as a central component to randomly determine the outcome of the game.

“Geofence” means any technology used to create a virtual geographic boundary, or technology used to detect the physical location of a device a patron is using to engage in Online Sports Wagering.

“Mobile Device” means portable electronic equipment used in Online Sports Wagering, including but not limited to a mobile phone, tablet, personal computer, electronic device, and any other portable electronic device.

“Online Sports Wagering” means any Sports Wagering using a Mobile Device platform, including, but not limited to, through the internet or an application installed on a Mobile Device to place Sports Wagers that are transmitted to a server located at a Gaming Facility on the Tribe’s Indian lands.

“Player Account” means an electronic account established by a patron for the purpose of Online Sports Wagering, including but not limited to deposits, withdrawals, wagered amounts, payouts on winning wagers, or similar adjustments.

“Roulette” means a gambling game in which a ball is dropped onto a revolving wheel (*roulette wheel*) with numbered compartments, the players betting on the number at which the ball will come to rest.

“Sports Governing Body” means the organization that prescribes final rules and enforces codes of conduct with respect to a sport event and participants therein.

“Sports Wager” or “Online Sports Wager” means the actual bet placed in Sports Wagering.

“Sports Wagering” has the meaning set forth in subdivision (i) of Section 19 of Article IV of the California Constitution.

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“Sports Wagering Kiosk” means an unattended, self-service terminal, machine, or other device provided by the Gaming Operation through which a patron may place or redeem a Sports Wager.

“Sports Wagering Gross Gaming Revenue” means the daily total amount of Sports Wagers less the daily amounts of winnings by patrons.

“Sports Wagering System” means all equipment, hardware, data networks, servers, communications technology, and software used in the operation of Sports Wagering that directly affect the wagering and results of Sports Wagering offered under this Model Form Amendment, including but not limited to the following: (a) Sports Wagering interactive components, including but not limited to all associated equipment and software that comprise the Sports Wagering platform used in a Sportsbook or used for Online Sports Wagering; (b) Sports Wagering Kiosks; and (c) ticket or voucher redemption devices. “Sports Wagering System” does not include a Mobile Device owned and used by a patron to place a Sports Wager.

“Sports Wagering Vendor” means an organization that provides any gaming goods or services in connection with the operation of Sports Wagering.

“Sportsbook” means the Sports Wagering area of a Gaming Facility where transactions are conducted from a counter located in a Sports Wagering lounge or other window locations as approved by the Tribal Gaming Agency, and any window in the cashier’s cage designated only for the redemption of winning Sports Wagering tickets.

**SECTION 2 PURPOSE.** The purpose of this Model Form Amendment is to establish and declare the terms upon which a Tribe may offer Sports Wagering, Roulette and Games Played With Dice as a means of further developing self-sufficiency and generating additional revenues necessary to provide tribal services and programs, while providing the State and the Tribe with an effective means of regulating such activities in accordance with IGRA.

### **SECTION 3 AUTHORIZATION AND LOCATION OF SPORTS WAGERING, ROULETTE AND GAMES PLAYED WITH DICE**

#### **3.1 Authorized Activities:**

In addition to those games authorized by the Tribe’s [year] Compact, the Tribe is authorized to offer Sports Wagering, Roulette and Games Played With Dice.

(A) The Tribe is authorized to establish and operate the games of Roulette and Games Played With Dice, only at its existing Gaming Facilities, and not online. Roulette and Games Played With Dice shall be regulated and licensed in the same manner as other games set forth in the [year] Compact.

(B) The Tribe is authorized to establish and operate Sports Wagering via an in-person Sportsbook and Online Sports Wagering on the Tribe’s Indian lands within its Gaming Facilities. All online servers and related devices for Online Sports Wagering must be maintained at a Gaming Facility on the Tribe’s Indian lands. Online Sports Wagering by players physically located within the State but not on the Tribe’s Indian lands shall be deemed to be exclusively conducted and operated by the Tribe where the servers and related devices used to conduct or operate the wagering are located at the Tribe’s Gaming Facility.



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- (1) Sportsbook. For purposes of this Model Form Amendment, a site within the Tribe's Gaming Facility shall be clearly demarcated. References to Sportsbook in this Model Form Amendment shall refer only to the portion of the Gaming Facility that has been demarcated as the Sportsbook and shall not refer to any other portion of the Gaming Facility.
- (2) Except as provided in this Model Form Amendment, no prohibition upon, or regulation of, the establishment or operation of the Sportsbook or Online Sports Wagering will be imposed upon the Tribe by the State.

3.2 Sportsbook. The Sportsbook must be located within a Gaming Facility. A Sportsbook authorized by this Model Form Amendment will be inspected by the Tribal Gaming Agency and the State Gaming Agency prior to commencement of operation to verify its conformity with the requirements of this Model Form Amendment. If a Sportsbook fails to meet any requirements of this Model Form Amendment, the Tribal Gaming Agency and/or State Gaming Agency will send a non-compliance letter to the Tribe and Gaming Facility manager or responsible person within seven (7) working days after completion of the inspection. If the Tribal Gaming Agency and State Gaming Agency do not agree on whether a Sportsbook meets the requirements of this Model Form Amendment, the Tribal Gaming Agency and State Gaming Agency will meet within seven (7) working days from receipt of the non-compliance letter and work together to resolve concerns. If a dispute regarding the inspection cannot be resolved by the Tribal Gaming Agency and State Gaming Agency within thirty (30) days, the Tribe and State may seek dispute resolution pursuant to the [year] Compact.

3.3 Server. The server or other equipment used to accept and redeem Sports Wagers must be located within a Gaming Facility.

3.4 Online Sports Wagering. The Gaming Operation must use a Geofence to ensure that all players engaging in Online Sports Wagering are physically located within the State of California. No less than thirty (30) days prior to offering Online Sports Wagering, the Gaming Operation must submit a proposal to the State Gaming Agency for review and to the Tribal Gaming Agency for review and concurrence, which proposal at a minimum must include, as applicable: (a) a description of the Geofence technology that will be used to prevent patrons from placing a Sports Wager using a Mobile Device if located outside of the State or on the Indian lands where such wagering is not permitted. If the Tribal Gaming Agency takes no action within thirty (30) days of receipt of the Tribe's proposal, the Tribe may implement the proposal. Any substantial change in the Geofence technology will require that the Gaming Operation submit a revised proposal to the Tribal Gaming Agency for review and concurrence in accordance with this Section. The Tribal Gaming Agency may only disapprove such portions of a proposal which it finds do not meet the requirements of this Model Form Amendment, and must detail the reasons for disapproval. If the State Gaming Agency determines that the proposal does not meet the provisions of the [year] Compact or this Model Form Amendment, the State Gaming Agency may seek dispute resolution pursuant to the [year] Compact.

### **SECTION 4 KIOSKS, HUBS AND SPOKES**

4.1 Location. Sports Wagering Kiosks may be located anywhere within the Gaming Facility and are subject to applicable surveillance requirements.

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4.2 Regulation. Regardless of their location, no Sports Wagering Kiosk may permit anonymous Sports Wagers or cash redemption.

4.3 Pre-operation Inspection. Sports Wagering Kiosks authorized by this Model Form Amendment will be inspected by the Tribal Gaming Agency and may be inspected by the State Gaming Agency, at its reasonable discretion prior to commencement of operation to verify their conformity with the requirements of this Model Form Amendment. If a Sports Wagering Kiosk fails to meet any requirements of this Model Form Amendment, the Tribal Gaming Agency and/or State Gaming Agency, if applicable, will send a non-compliance letter to the Tribe and Gaming Facility manager or responsible person within seven (7) working days after completion of the inspection. If the Tribal Gaming Agency and State Gaming Agency do not agree on whether a Sports Wagering Kiosk meets the requirements of this Model Form Amendment, the Tribal Gaming Agency and State Gaming Agency will meet within seven (7) working days from receipt of the non-compliance letter and work together to resolve their concerns. If a dispute regarding the inspection cannot be resolved by the Tribal Gaming Agency and State Gaming Agency within thirty (30) days, the Parties may seek dispute resolution pursuant to the [year] Compact.

4.4 Kiosks Not Class III Gaming Devices. Sports Wagering Kiosks shall not be included in the definition of a Gaming Device under the [year] Compact, and shall not be counted against the Tribe's total authorized Gaming Devices under the [year] Compact.

4.5 If the Tribe is offering Online Sports Wagering, the Tribe (for purposes of this Section 4.5, "Hub Tribe") may contract with any and all other willing federally recognized Tribes with Indian lands in California who are not otherwise offering Online Sports Wagering ("Spoke Tribe") to perform marketing and similar services for the Hub Tribe's Online Sports Wagering operation. If the contract provides for players to access the Hub Tribe's online sports wagering platform by means of software that uses a brand of the Spoke Tribe, such contract shall require the Hub Tribe to compensate the Spoke Tribe(s) with a payment of an amount not less than fifty percent (50%)] of the difference between: (i) the Adjusted Sports Wagering Gross Gaming Revenue earned by the Hub Tribe on all such wagering made through the Spoke Tribe's branded software and (ii) a reasonable or proportionate share of the expenses of the Hub Tribe in operating and conducting such wagering by players who access the Hub Tribe's Online Sports Wagering platform via software that uses a brand of the Spoke Tribe, including but not limited to amounts contributed to the Tribal Sports Wagering Revenue Sharing Trust Fund and the California Homelessness and Mental Health Fund.

4.6 Players may register an account for purposes of such online sports wagering in person at a Gaming Facility located on the compacting tribe's Indian lands within the external boundaries of California ("Operator Tribe"), or on the Indian lands of another federally recognized tribe within the external boundaries of California that is not otherwise offering online sports wagering and with whom a compacting tribe has contracted to establish such accounts ("Registration Affiliate Tribe"). If the contract provides for the Registration Affiliate Tribe to establish Player Accounts for players to access the Operator Tribe's online sports wagering platform by means of the Operator Tribe's own brand(s) and software, such contract shall require the Operator Tribe to compensate the Registration Affiliate Tribe with a payment of an amount not less than ten percent (10%) of the difference between: (i) the Adjusted Sports Wagering Gross Gaming Revenue earned by the Operator Tribe on all wagering by players who established their accounts on the Registration Affiliate Tribe's Indian lands and (ii) a reasonable or proportionate share of the expenses of the Operator Tribe in operating and conducting such wagering by players who

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established their accounts on the Operator Tribe's Indian lands, including but not limited to amounts contributed to the Tribal Sports Wagering Revenue Sharing Trust Fund and the California Homelessness and Mental Health Fund.

### **SECTION 5 STANDARDS OF CONDUCT AND OPERATION**

5.1 Approved Sports Wagers. The Gaming Operation may accept a Sports Wager on any event conducted by a league or organization, provided that the league, organization, and wager type are listed on a menu of Sports Wagers ("Authorized Sports Wagering Menu").

#### **5.1.1 Posting.**

- a. The Authorized Sports Wagering Menu will list Sports Wagers available at the Gaming Operation and will be made available to its patrons.
- b. The Authorized Sports Wagering Menu will be posted on the Gaming Facility's website or otherwise made available to the public.

5.1.2 Initial Authorized Sports Wagering Menu. The initial Authorized Sports Wagering Menu will include every league, organization, and wager type authorized by any U.S. jurisdiction or jurisdictions as determined by the Tribal Gaming Agency as of the effective date of this Model Form Amendment, except for Prohibited Activities as listed in Section 5.2 of this Model Form Amendment. The Tribe shall provide notice to the State Gaming Agency no later than seven days prior to offering Sports Wagering pursuant to this Model Form Amendment.

#### **5.1.3 Additions to Authorized Sports Wagering Menu.**

- a. The Gaming Operation may apply to the Tribal Gaming Agency, in the form required by the Tribal Gaming Agency, to add additional leagues, organizations, or wager types to the Authorized Sports Wagering Menu. The Tribal Gaming Agency will provide notice to the State Gaming Agency of any approval no fewer than five (5) business days before the Gaming Operation intends to offer a Sports Wager on the new league, organization, or wager type.
- b. If the State Gaming Agency believes that the new league, organization, or wager type violates applicable State law, or this Model Form Amendment, or otherwise lacks integrity, the State Gaming Agency will immediately notify the Tribal Gaming Agency, and no Sports Wagers will be offered by the Gaming Operation on the new league, organization, or wager type until the Tribal Gaming Agency and State Gaming Agency meet to discuss any State Gaming Agency concerns, as described below. The Tribal Gaming Agency and the State Gaming Agency will meet within five (5) business days of the Tribal Gaming Agency's initial notice to the State Gaming Agency of its approval to discuss any State Gaming Agency's concerns. The timeframe for meeting may be extended by mutual agreement. If after meeting, the Tribal Gaming Agency and State Gaming Agency cannot come to agreement on the Tribal Gaming Agency's determination, the Gaming Operation may offer the Sports Wager(s) at issue, and the State

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Gaming Agency may initiate dispute resolution pursuant to the [year]  
Compact.

### **5.1.4 Removals from the Authorized Sports Wagering Menu.**

(i) The Tribal Gaming Agency will immediately remove from the Authorized Sports Wagering Menu any league, organization, or wager type it determines violates applicable State law or this Model Form Amendment, or that has otherwise become compromised.

(ii) The Tribal Gaming Agency will immediately remove from the Authorized Sports Wagering Menu any league, organization, or wager type if it receives verifiable notice from the governing body of the sport requesting such removal.

(iii) If the State Gaming Agency disagrees on whether an item should be included in the Authorized Sports Wagering Menu, the State Gaming Agency shall provide written notice of such disagreement to the Tribal Gaming Agency, and the Tribal Gaming Agency and the State Gaming Agency shall meet within five (5) business days of the Tribal Gaming Agency's receipt of such notice to discuss the Agency's concerns. The timeframe for any such meeting may be extended by mutual agreement. If after meeting, the Tribal Gaming Agency and State Gaming Agency cannot come to agreement on whether the league, organization, or wager type can be listed on the Authorized Sports Wagering Menu, the Gaming Operation may continue to offer the Sports Wager(s) at issue and the State Gaming Agency may initiate dispute resolution pursuant to the [year] Compact.

5.1.5 Other Removals from the Authorized Sports Wagering Menu. If the Tribe removes a league, organization, or wager type from its Authorized Sports Wagering Menu as described in Section 5.1.1a, it will notify the State Gaming Agency within five (5) business days after removal.

### **5.2 Prohibited Activities and Participants.**

#### **5.2.1 Prohibited Activities.**

- a. Sports Wagers are not transferrable between patrons.
- b. No Gaming Employee may encourage patrons to place a Sports Wager of any specific type, kind, subject, or amount. This restriction shall not prohibit general advertising, promotional activities, or answering general questions about Sports Wagers.
- c. The Gaming Operation will not knowingly accept a Sports Wager on an event where the outcome has already been determined (past posting).

5.2.2 Prohibited Participants. The Gaming Operation will make all reasonable efforts to confirm that any patron seeking to engage in Sports Wagering is not a Prohibited Sports Wagering Participant. For purposes of this Model Form Amendment, the term "Prohibited Sports Wagering Participant" shall mean:

- a. Any individual under 21 years of age;

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- b. Any individual placing a Sports Wager as an agent or proxy;
- c. Any athlete whose performance may be used to determine, in whole or in part, the outcome of a Sports Wager;
- d. Any person who is an athlete, player, coach, manager, referee or other game official, physician, trainer, team employee or governing body employee, in any sports event overseen by such person's sports governing body;
- e. Any person with access to material, exclusive, non-public confidential information about a sports event that is the subject of a Sports Wager;
- f. Any person identified to the Tribal Gaming Agency by a sports governing body that the Tribal Gaming Agency and State Gaming Agency agree is a person who should be a Prohibited Sports Wagering Participant;
- g. Any person who holds a position of authority or influence sufficient to exert influence over the participants in a sports event that is the subject of a Sports Wager; and
- h. Any person which the Gaming Operation knows or reasonably should know is placing a wager by, or on behalf of, a Prohibited Sports Wagering Participant.

5.3 Sports Wagering System. No Sports Wagering System may be offered for play unless it has been tested and certified by an independent test laboratory as meeting the requirements set forth in Section 5.3.2, and approved in accordance with Section 5.3.6 of this Model Form Amendment.

- 5.3.1 Independent test laboratory. Any independent test laboratory shall have demonstrated it is competent and qualified to conduct scientific tests and evaluations of the Sports Wagering System and must be licensed by the Tribal Gaming Agency.
- 5.3.2 Minimum Standards. The Sports Wagering System must meet or exceed Gaming Laboratories International's GLI-33: Standards for Event Wagering Systems, and its appendices, as amended or modified ("GLI-33"), and the standards established by this Model Form Amendment. Alternative standards may be agreed to by the Tribal Gaming Agency and State Gaming Agency if the standards meet the requirements established in this Model Form Amendment.
- 5.3.3 Independent Test Laboratory Reports and Certification. At the conclusion of testing, the independent test laboratory shall provide to the Tribal Gaming Agency and the State Gaming Agency a report that contains findings, conclusions, and a certification that the Sports Wagering System conforms to the requirements contained in this Model Form Amendment. If the independent test laboratory determines the Sports Wagering System fails to conform to such requirements or technical standards, and if modifications can be made which would bring the Sports Wagering System into compliance, the report may contain

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recommendations for such modifications. If the independent test laboratory provides sufficient documentation that the Sports Wagering System or a component thereof has been tested and certified by that independent test laboratory, without any subsequent modifications, within the past one hundred and eighty (180) days, the independent test laboratory may provide to the Tribal Gaming Agency and the State Gaming Agency a report that contains findings, conclusions and the certification from the previous testing and that shall be sufficient to satisfy this requirement.

- 5.3.4 **Modifications.** No substantive modification to any Sports Wagering System may be made after testing, certification, and approval of a Sports Wagering System without certification of the modification by an independent test laboratory. The following modifications are not considered substantive: (a) changes to content not related to any regulated feature; (b) installation or changes to backup software; (c) adding or removing users; and (d) any system configuration changes that have no impact on the accuracy of report information, including but not limited to, gaming revenue.
- 5.3.5 **Emergency Certifications.** Nothing in this subsection prevents the immediate resolution of a critically urgent problem as long as documentation is submitted to the Tribal Gaming Agency and State Gaming Agency that details the specifics of the emergency and the steps taken to remedy the emergency. Once the emergency has passed, any substantive modification must go through the process described in Section 5.3.3 above.
- 5.3.6 **Approval of Certification; Revocation.** The Tribal Gaming Agency shall approve or disapprove of the Sports Wagering System or a component thereof after reviewing the certification, technical standards tested, and results of testing from the independent test laboratory, and will notify the State Gaming Agency of its findings and decision. The State Gaming Agency will notify the Tribal Gaming Agency if the State Gaming Agency determines a certification from the independent test laboratory was issued in error. The Tribal Gaming Agency and State Gaming Agency will meet and confer to discuss any State Gaming Agency concerns. The Tribal Gaming Agency may revoke its approval of the Sports Wagering System or a component thereof if it finds that the certification was erroneous.
- 5.3.7 **Security Assessment.** Prior to offering Sports Wagering and annually thereafter, the Gaming Operation must perform a system integrity and security assessment of the Sports Wagering System, which shall be conducted by an independent technical expert selected by the Gaming Operation and licensed by the Tribal Gaming Agency. The independent technical expert's report will be submitted to the Tribal Gaming Agency and the State Gaming Agency, and will include: (a) the scope of review; (b) name and company affiliation of the individuals who conducted the assessment; (c) date of assessment; (d) findings; (e) recommended corrective action, if applicable; and (f) the Gaming Operation's response to the findings and recommended corrective action, if applicable.
- 5.3.8 **Required Reports.** The Sports Wagering System must be capable of generating those reports necessary to record the adjusted gross receipts, wagering liability,

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ticket redemption, and such other information relating to Sports Wagering as deemed necessary by the Tribal Gaming Agency or as required by internal controls. These reports may include, but are not limited to: (a) revenue reports; (b) liability reports; (c) future events reports; (d) significant events and alterations reports; (e) wager record information reports; (f) market information reports; (g) contest/tournament information reports; (h) Player Account information reports; (i) Sports Wagering System information reports; (j) significant event information reports; (k) user access information reports; and (l) any other reports required by the Tribal Gaming Agency.

- 5.3.9 Future Technology Permitted. Upon approval by the Tribal Gaming Agency, any technology not specifically authorized by this Model Form Amendment may be utilized if the proposed technology will protect, maintain, or enhance current integrity and security standards in the [year] Compact or this Model Form Amendment.

5.4 Wagering Limits. Appropriate Sports Wagering limits will be set by the Gaming Operation, consistent with limitations on anonymous Sports Wagering in accordance with Section 7.1.1 and the Reserve Requirement in Section 5.5 below.

### **5.5 Player Accounts.**

- 5.5.1 Account Required. A Player Account is required to engage in Online Sports Wagering. The Gaming Operation will limit each patron to one active account and username. The Gaming Operation will implement rules and procedures to terminate all accounts of any patron who knowingly and intentionally establishes or seeks to establish multiple active accounts, whether directly or by use of another person as a proxy.
- 5.5.2 Registration. To establish a Player Account, a patron must be physically present at a Gaming Facility on the Operator Tribe's Indian lands, or be physically present on the Indian lands within California of a Registration Affiliate Tribe that has reached an agreement with the Operator Tribe to allow for the registration of Player Accounts, and at a minimum, the patron must verify the following information: (a) legal name; (b) date of birth; (c) social security number, or the last four digits thereof, or an equivalent identification number for a noncitizen patron, such as a passport or taxpayer identification number; (d) residential address; (e) email address, if any; and (f) telephone number, if any. The Gaming Operation that registers the Player Account must verify the patron's identity against a form of valid federal, state, or tribal government-issued photo identification. The Gaming Operation that registers the Player Account may utilize third-party know-your-customer services or a governmental database to authenticate a patron's identity or information. Prior to issuing a patron a Player Account, the patron must accept the Operator Tribe's terms and conditions for Sports Wagering, which must, at a minimum, notify the patron that the Player Account is non-transferrable, that the patron is prohibited from allowing any other person to access or use the Player Account, and that the patron consents to the laws of the Operator Tribe for governance of the Sports Wager.

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- 5.5.3 Account Funding. A Player Account may be funded with U.S. currency through the use of: (a) cash; (b) cash equivalent; (c) a patron's deposit of cash or vouchers at the Sportsbook or other cashiering location; (d) promotional credit; (e) winnings; (f) adjustments made by the Gaming Operation with documented notification to the patron; or (g) any other means approved by the Tribal Gaming Agency.
- 5.5.4 Player Account Controls. The Gaming Operation must implement Player Account controls that meet or exceed those in Gaming Laboratories International's GLI-33 (Standards for Event Wagering Systems), as amended or modified, or equivalent standards as approved by the Tribal Gaming Agency with concurrence from the State Gaming Agency, and the standards established by this Model Form Amendment.
- 5.6 Surveillance. All physical components of the Sports Wagering System, except wiring, cables, and conduit in which they are located, shall have the ability to be effectively and clandestinely monitored and recorded by means of a surveillance system as provided in the Tribe's internal controls. Mobile Devices owned by the Gaming Operation that are utilized by a patron as part of the Sports Wagering System may have lesser surveillance requirements outlined in the Tribe's internal controls.
- 5.7 Accounting Records. As part of the accounting records required to be kept in accordance with the [year] Compact and this Model Form Amendment, the Gaming Operation must keep detailed, Sports Wagering records to support those accounting records in accordance with applicable internal controls. The internal controls must also establish minimum audit standards.
- 5.8 Internal Controls. Prior to beginning Sports Wagering operations, the Tribe must implement or amend its internal controls as minimum operating standards to govern the operation and management of Sports Wagering.
- 5.8.1 Initial Internal Controls. The Tribal Gaming Agency shall forward to the State Gaming Agency its initial internal controls for review. The proposal will contain a narrative representation of the internal control system. The Tribal Gaming Agency shall detail how the internal controls meet or exceed the requirements described in this Section 5.8.
- 5.8.2 Minimum Requirements. The internal controls shall address the following, at a minimum:
- a. Description of gaming employees who perform essential functions, including, but not limited to, management of Sports Wagering, supervisory authority over daily operation of Sports Wagering, overseeing technology issues related to the Sports Wagering System, acceptance of Sports Wagers in the Sportsbook, handling payouts on winning tickets/vouchers, and coordination of compliance efforts related to Sports Wagering;
  - b. In the event of a failure or malfunction of the Sports Wagering System's ability to pay winning Sports Wagers, the Gaming Operation shall have internal controls detailing the method of paying winning Sports Wagers. The Gaming Operation shall also file an incident report for each system



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failure and document the date, time, and reason for the failure along with the date and time the system is restored with the Tribal Gaming Agency;

- c. User access controls for Sports Wagering personnel;
- d. Segregation of duties;
- e. Automated and manual risk management procedures;
- f. Procedures for identifying and reporting fraud and suspicious conduct, including but not limited to identifying unusual wagering activity and suspicious wagering activity, and reporting such activity to an integrity monitoring provider;
- g. Procedures for identifying and preventing Sports Wagering by Prohibited Sports Wagering Participants;
- h. Description of anti-money laundering compliance standards, which must include limitations placed on anonymous wagering and prohibit anonymous single Sports Wagers of \$2,000 or more, and include the retention of the wager record information with patron identification;
- i. Process for submitting or receiving approval of all types of wagers to be offered by the Sports Wagering System;
- j. Description of process for accepting Sports Wagers and issuing pay outs, plus any additional controls for accepting Sports Wagers and issuing pay outs in excess of \$10,000;
- k. Description of a process for accepting multiple Sports Wagers from one patron in a 24-hour cycle, including, but not limited to, a process to identify patron structuring of Sports Wagers to circumvent recording and reporting requirements;
- l. Opening and closing Sportsbook windows;
- m. Procedures for reconciliation of assets and documents contained in a Sports Wagering area cashier's drawer, Sports Wagering Kiosk, and Online Sports Wagering, which must include the drop and count procedures for Sports Wagering Kiosks;
- n. Procedures for cashing winning tickets at the cage after the Sportsbook has closed, if applicable;
- o. Procedures for accepting value game chips for Sports Wagering, if applicable;
- p. Procedures for issuance and acceptance of promotion funds and free wagers for Sports Wagering, if applicable;

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- q. Description of all integrated third-party systems;
- r. Procedures for closing out dormant Player Accounts;
- s. Procedures for making adjustments to a Player Account, including, but not limited to, the process for a patron to close out a Player Account, and a process whereby a patron will be refunded after the closure of a Player Account;
- t. If the Sports Wagering System includes Online Sports Wagering, a method for verifying patrons' wagers;
- u. Procedures to maintain the security of identity and financial information of patrons;
- v. Procedures for securely issuing, modifying, and resetting a Player Account password, personal identification number, biometric login, or other approved security feature, when applicable;
- w. Procedures for patron notification including, but not limited to, any password or security modification via electronic or regular mail, text message, or other manner approved by the Tribal Gaming Agency, provided that such methods will include, at a minimum: (A) if in person, verify the patron's identity against a form of a valid federal, state, or tribal government-issued, photo identification; (B) the correct response to two or more challenge questions; (C) strong authentication; or (D) two-factor authentication;
- x. Controls to prevent ACH fraud regarding failed ACH deposits into a Player Account and policies regarding Player Account closure, dormant Player Accounts, unclaimed funds in a dormant Player Account, and suspension and subsequent restoration of a Player Account;
- y. Change control procedure;
- z. Procedures for receiving, investigating and responding to patron complaints;
- aa. Procedures to ensure security of the servers;
- bb. Procedures for line setting and line moving;
- cc. Procedures regarding redemption of winning tickets, including but not limited to a method for redeeming lost tickets, if allowed;
- dd. Description of the circumstances, limitations, and method by which the Gaming Operation will cancel wagers, which must at a minimum require cancellation in the event of an obvious error and require that only a supervisory employee of the Gaming Operation can void or cancel a wager;

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- ee. Procedures for voiding wagers;
- ff. Accounting and audit procedures; and
- gg. Any other internal controls deemed necessary by the State Gaming Agency and Tribal Gaming Agency by memorandum of agreement.

5.8.3 Revisions. Any new or revised internal controls adopted by the Tribe shall ensure that the interests of the Tribe and the State relating to Sports Wagering are preserved and protected; maintain the integrity of Sports Wagering; and reduce the dangers of unfair or illegal practices in the conduct of Sports Wagering. The Tribal Gaming Agency shall forward to the State Gaming Agency any proposed changes to the internal controls for review. The Tribal Gaming Agency shall detail how such changes in the provisions adequately preserve and protect the integrity and security of the standard it is replacing.

5.9 House Rules. The Gaming Operation will adopt comprehensive house rules, which must be approved by the Tribal Gaming Agency, and made available to patrons at the Gaming Facility and through the Sports Wagering System. House Rules shall include: (1) method for calculation and payment of winning wagers; (2) description of the process for handling incorrectly posted events, odds, wagers, or results; (3) effect of schedule changes; (4) method of notifying patrons of odds or proposition changes; (5) acceptance of wagers at other than posted terms; (6) expiration of any winning ticket; (7) lost ticket policy; (8) method of contacting the operator for questions and complaints; (9) a policy by which the Gaming Operation can cancel or void wagers; and (10) a description of Prohibited Sports Wagering Participants.

### **SECTION 6 SPORTS WAGERING LICENSING AND CERTIFICATION**

The Tribe and State will share information about significant licensing and certification matters that reflect on the conduct of Sports Wagering.

6.1 Applicability of Compact Provisions. Sports Wagering Vendors will be licensed and certified in accordance with this Model Form Amendment; however, to extent they are not addressed herein, the licensing requirements under the [year] Compact will also apply to this Model Form Amendment. All manufacturers, suppliers of gaming services, and financiers not expressly identified in this Model Form Amendment will be licensed and certified in accordance with the [year] Compact, unless exempted therein. Consistent with the [year] Compact, in the event a Sports Wagering Vendor provides or intends to provide less than \$25,000 in Sports Wagering goods or services annually, the licensing requirements may be waived upon the mutual agreement of the Tribal Gaming Agency and State Gaming Agency. This waiver does not apply to Sports Wagering Vendors whose compensation is contractually determined by the Tribe's Sports Wagering revenue.

6.2 Sports Wagering Vendors. Each Sports Wagering Vendor must be licensed by the Tribal Gaming Agency and certified by the State Gaming Agency prior to the sale or delivery of any component of the Sports Wagering System or Sports Wagering services to the Tribe. If a Sports Wagering Vendor is certified by the State Gaming Agency to supply any component of the Sports Wagering System or Sports Wagering services to any other tribe in California, it shall be deemed certified to supply similar goods or services to the Tribe for the purposes of this Model Form

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Amendment, provided that such goods and services are within the same Sports Wagering Vendor category, each of which are described in Sections 6.2.1 – 6.2.3 below.

- 6.2.1 Major Sports Wagering Vendor. Any person or entity that provides goods or services integral to Sports Wagering must be licensed as a Major Sports Wagering Vendor by the Tribal Gaming Agency and certified by the State Gaming Agency. The following vendors are integral to Sports Wagering:
- a. Manager of the Tribe's Sports Wagering activities pursuant to an agreement approved by the National Indian Gaming Commission;
  - b. When the Tribe manages its own Sports Wagering activities, the Tribe's primary consultant who provides substantial Sports Wagering related services;
  - c. Any manufacturer or distributor of the Sports Wagering System or a component thereof;
  - d. Provider of book-making services; or
  - e. Provider of Sports Wagering risk management services.
- 6.2.2 Mid-Level Sports Wagering Vendor. Any entity that provides security or integrity services directly related to Sports Wagering must be licensed as a Mid-Level Sports Wagering Vendor by the Tribal Gaming Agency and certified by the State Gaming Agency. For the purpose of this Section 6.2.2, security or integrity services include the following:
- a. Integrity monitoring services;
  - b. Services related to compilation, furnishing, or storage of official data for use in Sports Wagering;
  - c. System security testing or certification services directly related to initial or annual testing or assessment of the Sports Wagering System security;
  - d. Services directly related to the creation and maintenance of a Geofence to ensure that wagers are placed within California;
  - e. Player account management services, including, but not limited to, Software-as-a-Service (SaaS); and
  - f. Any other provider of security or integrity services that the Tribal Gaming Agency and State Gaming Agency agree must be licensed and certified as a Mid-Level Sports Wagering Vendor because the provider's services are directly related to Sports Wagering.
- 6.2.3 Ancillary Sports Wagering Vendors. Any entity that provides necessary support services to Sports Wagering must be licensed as an Ancillary Sports Wagering Vendor by the Tribal Gaming Agency and certified by the State Gaming Agency.

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For the purpose of this Section 6.2.3, support services include at least the following:

- a. Services related to the offering of mobile payment processing for use in Online Sports Wagering;
- b. Know-your-customer services for use in Online Sports Wagering; and
- c. Marketing services in which compensation for such services is, by contract, determined by the Tribe's Sports Wagering revenue.

6.3 Tribal Licensing of Sports Wagering Vendors. All applicants required to be licensed by the Tribe shall complete forms furnished by the Tribal Gaming Agency. The Tribal Gaming Agency shall establish the Tribal licensing fees for Sports Wagering Vendors.

6.4 State Certification of Sports Wagering Vendors. Each Sports Wagering Vendor and its representatives shall apply for certification by the State Gaming Agency and shall submit the completed applications along with the required information and fees to the State Gaming Agency. The State Gaming Agency shall expedite Sports Wagering Vendor certification requests. For applicants who are business entities, the State's application and investigation will extend to each principal of the entity but will not apply to spouses of any principals. The State Gaming Agency may conduct interviews virtually and review documents electronically when possible. The State Gaming Agency may perform a site visit if an applicant requests a site visit or if the State Gaming Agency determines that the information sought is critical to its investigation and such information cannot be obtained by other reasonable measures.

6.5 Fees for State Certification. The State may establish required fees for initial and renewal State certification. The amount of such fees shall reflect only the actual and reasonable costs of the State in processing the applications.

### **SECTION 7. CRIMINAL ENFORCEMENT**

The State and Tribe agree to the transfer of any state jurisdiction to the Tribe regarding enforcement of the Tribe's gaming laws and regulations upon the players who establish or seek to establish Player Accounts. For purposes of this Model Form Amendment, the State and Tribe agree that all Online Sports Wagers made pursuant to this Model Form Amendment by players physically located within the State are deemed to be offered, originated, accepted and otherwise take place exclusively at the location of the server where the transaction is received and processed, which shall be located only at a Gaming Facility on the Tribe's Indian lands.

7.1 Anti-Money Laundering.

7.1.1 Limits on Anonymous Wagering.

- a. No patron shall engage in Online Sports Wagering, as provided in Section 5.5.1 of this Model Form Amendment, without a Player Account.
- b. No patron may anonymously place a single Sports Wager of \$2,000 or more. The internal controls will detail acceptable forms and methods of identifying a patron who places a wager of \$2,000 or more.

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- 7.1.2 Federal Requirements. The Tribe is responsible for the regulatory oversight of Player Accounts and patron funds held on deposit. The Tribe's internal controls will describe how the Tribe will comply with applicable federal requirements including, but not limited to, requirements imposed by the Federal Trade Commission (FTC), Office of the Comptroller of the Currency (OCC), Financial Crimes Enforcement Network (FinCEN), Consumer Financial Protection Bureau (CFPB), Office of Foreign Assets Control (OFAC) and the US Department of Treasury.
- 7.2 Sports Integrity.
- 7.2.1 Collaboration. The State Gaming Agency and Tribal Gaming Agency shall collaborate in an effort to prevent and detect competition manipulation through education and enforcement of applicable State laws related to the integrity of sporting events, athletic events, or competitions within the State.
- 7.2.2 Integrity Monitoring Provider. To ensure the Tribal Gaming Agency and State Gaming Agency can monitor the integrity of Sports Wagering, the Gaming Operation will require the collection of aggregate Sports Wagering information, in a format that can be efficiently utilized, provided to, and analyzed by an approved integrity monitoring provider. The integrity monitor provider will seek to identify unusual wagering activity and suspicious wagering activity and upon receiving any report of unusual wagering activity or suspicious wagering activity communicate such to the Tribal Gaming Agency, which will review all reports and determine if action is required.
- 7.2.3 Annual Report. The Tribe shall submit a yearly report to the State Gaming Agency, which details services provided by the integrity monitoring provider and summarizes any unusual wagering activity or suspicious wagering activity notifications issued during that time period.

### **SECTION 8 EXCLUSIVITY**

8.1 The California Constitution provides California Indian Tribes with the exclusive right to offer online and in-person Sports Wagering, Roulette and Games Played With Dice within gaming facilities located on Indian lands.

8.2 Although the parties recognize that Indian Tribes in California have the exclusive right to operate Sports Wagering, Roulette and Games Played With Dice, and Online Sports Wagering, the parties have agreed that in the event the exclusive right of Indian Tribes to operate such games is abrogated by the enactment, amendment, or repeal of a State statute or constitutional provision, or the conclusive and dispositive judicial construction of a statute or the State Constitution by a California appellate court after the effective date of this Model Form Amendment that such games may lawfully be operated by another person, organization, or entity (other than an Indian tribe pursuant to a Class III Gaming Compact or Secretarial Procedures) within California, the Tribe shall have the right to continue operating the activities authorized by this Model Form Amendment with an entitlement to immediately discontinue concessions made to the State in exchange for the exclusive operation of online sports wagering specified in Sections 9 and 10. In the event of these circumstances, the Tribe and State shall negotiate in good faith for

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the payment or reimbursement of the State's actual and reasonable costs of performing the regulatory oversight functions set forth in this Model Form Amendment.

### **SECTION 9 PAYMENTS INTO THE TRIBAL SPORTS WAGERING REVENUE SHARING TRUST FUND.**

In consideration of the State's meaningful concession in amending the California Constitution to provide for the Tribe's exclusivity to operate Sports Wagering, Roulette and Games Played with Dice, and online Sports Wagering, the Tribe agrees to pay fifteen percent (15%) of the Adjusted Sports Wagering Gross Gaming Revenue into the Tribal Sports Wagering Revenue Sharing Trust Fund established by the State pursuant to the Age-Verified Tribal Online and In-Person Sports Wagering Regulatory Act.

(A) Payments shall be made annually beginning on the 13-month anniversary of offering Sports Wagering, based on the first 12 months of operation, and preceding 12 months of operation thereafter. In the event the State fails to establish such Fund in a manner to accept the Tribe's contributions, the Tribe shall hold the funds in an escrow account and/or distribute such funds in even shares to eligible Non-Gaming and Limited Gaming Tribes (as defined in the [year] Compact) that would otherwise qualify to receive monies from the fund.

(B) Within thirty days of the end of each calendar quarter year, the State Gaming Agency shall disburse all monies deposited into the Tribal Sports Wagering Revenue Sharing Trust Fund during the previous calendar quarter year to all eligible Non-Gaming and Limited Gaming Tribes in equal shares on a pro rata basis. Monies deposited into the Tribal Sports Wagering Revenue Sharing Trust Fund shall not be used for purposes other than as specified in this Section 9. In no event shall the State's General Fund be obligated to pay any unpaid claims connected therewith.

(C) Monies in the Tribal Sports Wagering Revenue Sharing Trust Fund shall not be borrowed, loaned, or otherwise transferred to the General Fund or other funds in the State Treasury. Moneys deposited into the fund, and any account within the fund, including but not limited to any interest earned thereon, shall only be used for the specific purposes set forth in this Section 9.

(D) Every two years, the State Controller shall conduct an audit of Tribal Sports Wagering Revenue Sharing Trust Fund to ensure that the funds are disbursed and expended solely in accordance with the California Tribal Government Mobile & Retail Sports Wagering Act of 2022 and the terms of this Model Form Amendment, and shall report his/her findings to the Tribe, the California Legislature and the public.

### **SECTION 10 PAYMENTS INTO THE CALIFORNIA HOMELESSNESS AND MENTAL HEALTH FUND**

In consideration of the State's meaningful concession in amending the California Constitution to provide for the Tribe's exclusivity to operate online and in-person Sports Wagering, Roulette and Games Played With Dice, the Tribe agrees to pay ten percent (10%) of the Adjusted Sports Wagering Gross Gaming Revenue into the California Homelessness and Mental Health

## **THE AGE-VERIFIED TRIBAL ONLINE AND IN-PERSON SPORTS WAGERING REGULATORY ACT**

Fund established by the State pursuant to the Age-Verified Tribal Online and In-Person Sports Wagering Regulatory Act.

(A) Payments shall be made annually beginning on the 13-month anniversary of the Tribe offering Sports Wagering to the public, based on the first 12 months of operation, and each proceeding 12 months of operation thereafter. In the event the State fails to establish such Fund in a manner to accept the Tribe's contributions, the Tribe shall hold the funds in an escrow account and/or distribute such funds directly to programs that would otherwise qualify to receive moneys from the Fund.

(B) The Fund shall first be used by the State for the reimbursement of or payment for only those actual and reasonable costs incurred by the State in the direct performance of its obligations to regulate and oversee Sports Wagering activities, including without limitation reimbursement of the Indian Gaming Special Distribution Fund as set forth in Section 22949.76(b) of the California Business and Professions Code. The annual appropriation for the State's costs shall be clearly sufficient to ensure that the State Gaming Agency is adequately staffed, that online sports betting is adequately regulated, and that the purposes of this Model Form Amendment are being faithfully carried into effect, provided however, in no event shall more than ten percent (10%) of the monies contributed to the fund be appropriated to the State Gaming Agency in any fiscal year.

(C) Any remaining monies shall be used for programs designed to combat homelessness and mental illness, such as delivering permanent and interim housing, including but not limited to rental assistance, supportive services, and operating subsidies or reserves for homelessness and mental health as determined by the California Legislature.

(D) Moneys in the California Homelessness and Mental Health Fund shall not be borrowed, loaned, or otherwise transferred to the General Fund or other funds in the State Treasury. Moneys deposited into the Fund, and any account within the Fund, including any interest earned thereon, shall only be used for the specific purposes set forth in this Model Form Amendment.

(E) Every two years, the Controller shall conduct an audit of the California Homelessness and Mental Health Fund to ensure the funds are disbursed and expended solely according to this article and shall report their findings to the Tribe, the Legislature and the public.

(F) The Homelessness and Mental Health Fund shall not be used by the State to supplant existing State or local funds utilized to combat homelessness and mental illness.

**SECTION 11 GOVERNING LAW.** This Model Form Amendment shall be governed by and construed in accordance with IGRA and the laws of the State of California to the extent those laws are not inconsistent with IGRA; provided, however, that provisions of State laws and regulations expressly incorporated into this Model Form Amendment shall be construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the parties have executed this Model Form Amendment on the day and year first written above.



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[Tribe]

By \_\_\_\_\_  
[Tribe]

Executed this \_\_\_\_ day of \_\_\_\_\_,  
202\_\_, at \_\_\_\_\_

**SECTION 7. OPTION OF CONDUCTING ONLINE SPORTS WAGERING OFF OF INDIAN LANDS**

SEC. 7.1. Chapter 38 (commencing with section 22949.60) is added to Division 8 of the Business and Professions Code, to read:

*Chapter 38. Online Sports Wagering Off of Indian Lands.*

*22949.60. Authorization of Online Sports Wagering Off of Indian Lands.*

(a) *A federally recognized Indian tribe with Indian lands in California may at any time elect to offer online sports wagers entirely off of Indian lands and not subject to the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701 et seq., or any successor statute thereto, subject to the following provisions:*

(1) *Any person 21 years of age or older physically located within the external boundaries of the State of California shall be expressly authorized by California law to place wagers on sporting events by means of an internet connection, subject to the requirements of this section 22949.60, provided that all such wagers are placed and received outside of Indian lands.*

(2) *Online sports wagering authorized by this subdivision shall be exclusively authorized, conducted, and operated by federally recognized Indian tribes in their capacity as sovereign nations and pursuant to the laws of the State of California, including, but not limited to, Section 19(f) of the California Constitution and statutes enacted in furtherance thereof, except that the requirements of account registration by players pursuant to Section 19(f)(4)(D) may take place within the external boundaries of the State of California, outside of Indian lands, within ten (10) miles of the Indian lands of the Operator Tribe or Registration Affiliate Tribe, and at a facility where such registration is exclusively operated by the Operator Tribe or Registration Affiliate Tribe, provided that nothing in this paragraph shall authorize gaming activity not otherwise authorized by law to occur at the registration location.*

(3) *Any information directly or indirectly related to the conduct or operation of online sports wagering that is submitted by a federally recognized Indian tribe, or any entity wholly owned by a federally recognized Indian tribe, to the State pursuant to the laws of the State of California or any regulations promulgated in support of the state laws, along with any derivative work prepared by the State that in any way involves the information submitted, shall be exempt from public disclosure.*

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(4) *To the extent the provisions of the Model Form Sports Wagering Compact Amendment, found in section 98100 of Chapter 2 of Title 16 of the Government Code, apply to online sports wagering, whether or not also applicable to other forms of gaming, such provisions are incorporated herein as a matter of state law and made applicable to any online sports wagering deemed to take place exclusively within the external boundaries of the State of California but outside of Indian lands, as authorized, conducted and operated exclusively by federally recognized Indian tribes in their capacity as sovereign nations and in accordance with the laws of the State of California, except the following shall not apply: (i) any requirement or reference in the Model Form Sports Wagering Compact Amendment to online sports wagering, or any component of the authorization, conduct or operation thereof, taking place on Indian lands or at a tribe's gaming facility; (ii) any requirement or reference to the application of the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701 et seq., or any provision therein or successor statute thereto; and (iii) Section 11 of the Model Form Sports Wagering Compact Amendment, pertaining to governing law.*

(5) *To the extent a federally recognized Indian tribe authorized to conduct or operate online sports wagering enters into an agreement with a contracting party for the provision or management of services related to such online wagering, the contracting party shall be entitled to no more than forty percent (40%) of the net revenues from such operation and the agreement shall not have a term longer than seven (7) years. For purposes of this subdivision, "net revenues" shall mean gross gaming revenues less (i) amounts paid out as, or paid for, prizes and (ii) total gaming-related operating expenses, including, but not limited to, all those expenses of the gaming operation commonly known as operating expenses and non-operating expenses consistent with professional accounting pronouncements, excluding management fees.*

(6) *For the avoidance of doubt, any federally recognized Indian tribe in its capacity as a sovereign nation that is authorized and conducts or operates any online sports wagering pursuant to this subdivision shall contribute fifteen percent (15%) of its Adjusted Sports Wagering Gross Gaming Revenue from online sports wagering into the Tribal Sports Wagering Revenue Sharing Trust Fund and ten percent (10%) of its Adjusted Sports Wagering Gross Gaming Revenue from online sports wagering into the California Homelessness and Mental Health Fund.*

(b) *If a court of competent jurisdiction determines that Section 19(f) of Article IV of the California Constitution, or online sports wagering authorized thereby, (1) is unlawful or invalid because, or to the extent that, online sports wagering by players physically located within the external boundaries of the State of California but outside of the Indian lands of the tribe offering such sports wagering is not or cannot be deemed to take place exclusively on the Indian lands of the tribe offering such sports wagering, or (2) is violative of any law by virtue of gaming activity occurring in whole or in part on Indian lands, such determination:*

(1) *shall have no effect on the exclusive rights granted under Section 19(f) to federally recognized Indian tribes to conduct or operate online sports wagering or on the manner by which online sports wagering may be conducted or operated as specified therein, except as specifically modified by this section 22949.60. For the avoidance of doubt, to the extent any provision of Section 19(f) of Article IV of the California Constitution is dependent upon or subject to the application of federal law, such provision shall remain in effect to the greatest extent possible under the laws of the State of California; and*

## **THE AGE-VERIFIED TRIBAL ONLINE AND IN-PERSON SPORTS WAGERING REGULATORY ACT**

(2) shall have no effect upon the conduct or operation of any game or any method or manner to authorize, conduct or operate any game, including, but not limited to, any Model Form Sports Wagering Compact Amendment or other approved tribal gaming compact or compact amendment, except to the extent that online sports wagering shall be deemed (i) to take place outside of Indian lands and not authorized, conducted or operated pursuant to the federal Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701 et seq., or any successor statute thereto, or (ii) violative of any law by virtue of gaming activity occurring in whole or in part on Indian lands.

(c) Nothing in this section shall be interpreted to prevent a tribe that operates sports wagering off of Indian lands pursuant to this section 22949.60 from operating sports wagering pursuant to the Model Form Sports Wagering Compact Amendment, or other compact or compact amendment, once such compact or compact amendment is in effect pursuant to the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701 et seq., or any successor statute thereto.

### **SECTION 8. ONLINE SPORTS WAGERING RULEMAKING PROCESS AND REGULATIONS**

SEC. 8.1. Chapter 39 (commencing with section 22949.70) is added to Division 8 of the Business and Professions Code, to read:

*Chapter 39. Online Sports Wagering Rulemaking Process and Regulations.*

*22949.70. Online Sports Wagering Regulations. Solely for purposes of online sports wagering offered pursuant to state law as contemplated by Chapter 38 (commencing with section 22949.60) of Division 8 of the Business and Professions Code, Uniform Online Sports Wagering Regulations shall be adopted by the State Gaming Agency and approved by the Association to implement the Age-Verified Tribal Online and In-Person Sports Wagering Regulatory Act that will govern online sports wagering until amended or repealed, without further action by the State Gaming Agency or the Association. The rulemaking process set forth in this section shall not apply, or be construed to apply, to any gaming activities, including, but not limited to, online sports wagering, offered pursuant to the federal Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701 et seq. The State Gaming Agency's rulemaking role for gaming activity conducted pursuant to the Indian Gaming Regulatory Act is set forth in the gaming compacts between the tribes and the State.*

(a) *Delegation of Authority to the State Gaming Agency.*

(1) *The State Gaming Agency may adopt, amend and repeal regulations necessary to carry out the purposes and provisions of Chapter 38 of Division 8 of the Business and Professions Code and permit online sports wagering to be offered, conducted, and operated in this State.*

(2) *Included within the power of the State Gaming Agency to adopt, amend and repeal regulations is the power to adopt regulations relating to:*

- (A) *the placement or acceptance of online sports wagers;*
- (B) *the types of records that shall be retained;*
- (C) *the protection of patrons placing online sports wagers;*
- (D) *the promotion of responsible online sports wagering;*

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- (E) *the protection of persons under 21 years of age;*
- (F) *the requirements for online sports wagering servers and other online sports wagering equipment;*
- (G) *the geofencing of online sports wagering;*
- (H) *the operation of online sports wagering kiosks;*
- (I) *the requirements for online sports wagering menus and related public postings;*
- (J) *the prohibited activities and participants;*
- (K) *the online sports wagering platform testing and certification;*
- (L) *the wagering limits imposed by tribal operators of online sports wagering;*
- (M) *the surveillance of online sports wagering equipment;*
- (N) *the internal controls adopted by tribal operators of online sports wagering;*
- (O) *the house rules adopted by tribal operators of online sports wagering;*
- (P) *the licensing of, and suitability standards regarding, sports wagering operators, key persons, and vendors (including, but not limited to, temporary licensing);*
- (Q) *allowing for the acceptance of a valid employee gaming license issued by a tribal gaming agency as sufficient to cover online sports wagering activities, and allowing for the participation of tribal gaming agencies in the processing, investigating, and providing of licensure recommendations;*
- (R) *consumer protection and conduct of online sports wagering;*
- (S) *authorization of permitted types of wagers; and*
- (T) *any other matters that are necessary to fulfill the purpose and intent of the Model Form Sports Wagering Compact Amendment.*

(3) *Paragraph (2) above is merely a description of the regulatory powers of the State Gaming Agency. Nothing in paragraph (2) shall be interpreted as a limitation on the powers of the State Gaming Agency to adopt, amend, or repeal regulations.*

(4) *In exercising its authority under this subdivision, the State Gaming Agency shall adopt regulations that are consistent, to the maximum extent possible, with the Model Form Sports Wagering Compact Amendment, and shall look to the Model Form Sports Wagering Compact Amendment to determine the scope and content of online sports wagering regulations.*

(5) *To the extent not inconsistent with paragraph (a)(4) above and to the extent necessary to fulfill the purposes of the Age-Verified Tribal Online and In-Person Sports Wagering*

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*Regulatory Act, the State Gaming Agency may examine the regulations adopted in other U.S. states or territories where online sports wagering is lawfully conducted to adopt a regulatory structure to govern online sports wagering.*

*(b) No State Gaming Agency regulations adopted pursuant to this section shall be effective with respect to online sports wagering unless they have first been approved by the Association and the tribes have had the opportunity to review and comment on the proposed regulations.*

*(c) Every State Gaming Agency regulation adopted pursuant to this section that is intended to apply to online sports wagering (other than a regulation proposed or previously approved by the Association) shall be submitted to the Association for consideration prior to submission to the tribes for comment. A regulation adopted pursuant to this section that is disapproved by the Association shall not be submitted to the tribes for comment unless it is re-adopted by the State Gaming Agency as a proposed regulation, in its original or amended form, with a detailed, written response to the Association's objections.*

*(d) Except as provided in subdivision (e), no regulation of the State Gaming Agency adopted pursuant to this section shall be adopted as a final regulation with respect to online sports wagering operations—*

*(1) unless the proposed regulation is approved by the Association and before the expiration of thirty (30) days after submission of the proposed regulation to the tribes for comment as a proposed regulation, and after the consideration of the tribes' comments, if any; and*

*(2) in the event the Association fails to approve the proposed regulation following the State Gaming Agency considering the Association's objections, preparing a detailed, written response to the Association's objections, and submitting the re-adopted proposed regulations to the Association for reconsideration and approval, unless the State Gaming Agency secures a temporary restraining order or preliminary injunction pursuant to subdivision (b) of section 22949.71 authorizing the State Gaming Agency to adopt the proposed regulation as a final regulation.*

*(e) In exigent circumstances (e.g., imminent threat to public health and safety), the State Gaming Agency may seek a temporary restraining order or preliminary injunction from a court of competent jurisdiction authorizing it to adopt a regulation that becomes effective immediately. Any such regulation shall be accompanied by a detailed, written description of the exigent circumstances, and shall be submitted immediately to the Association for consideration. If the regulation is disapproved by the Association, it shall cease to be effective not later than thirty (30) days after the Association submits a disapproval notice to the State Gaming Agency but may be re-adopted by the State Gaming Agency as a proposed regulation, in its original or amended form, with a detailed, written response to the Association's objections, and thereafter be submitted to the tribes for comment; provided, however that the proposed regulation shall remain subject to the requirements in subdivision (d).*

*(f) Tribes may object to a State Gaming Agency regulation adopted pursuant to this section on the ground that it is unnecessary, unduly burdensome, or unfairly discriminatory.*

*(g) For purposes of this chapter—*

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(1) *“Association” means an association of California tribal and state gaming regulators, the membership of which comprises up to two (2) representatives from each Tribal Gaming Agency of each federally recognized Indian tribe with which the State has a gaming compact under the Indian Gaming Regulatory Act, and of each tribe offering Class III gaming under duly promulgated procedures prescribed by the United States Secretary of the Interior pursuant to 25 U.S.C. § 2710(d)(7)(b)(vii) or any successor statute thereto, and up to two (2) delegates each from the state Bureau of Gambling Control and the California Gambling Control Commission.*

(2) *“State Gaming Agency” means the California Gambling Control Commission, unless the California Gambling Control Commission expressly delegates its rulemaking authority under this chapter to the California Bureau of Gambling Control.*

(3) *“Tribal Gaming Agency” means the person, agency, board, committee, commission, or council designated under tribal law with the primary responsibility for carrying out the tribe’s regulatory responsibilities under the Indian Gaming Regulatory Act and the tribe’s gaming ordinance. For purposes of this chapter, no person employed in, or in connection with, the management, supervision, or conduct of any gaming activity may be considered a member or employee of the Tribal Gaming Agency.*

(h) *Initial Online Sports Wagering Regulations.*

(1) *Not later than thirty (30) days after the effective date of this chapter, the State Gaming Agency shall initiate procedures to adopt regulations as are necessary to carry out this section.*

(2) *The State Gaming Agency shall adopt and submit proposed initial regulations governing online sports wagering to the Association for consideration not later than one hundred twenty (120) days after the effective date of this chapter. This deadline for adopting regulations may be extended up to thirty (30) days if the State Gaming Agency concludes that it cannot meet the deadline.*

(3) *The Association shall consider and approve or disapprove by majority vote the proposed initial regulations not later than sixty (60) days after the date of submission of the regulations to the Association by the State Gaming Agency.*

(A) *Approval by the Association. If the Association approves the proposed initial regulations, the State Gaming Agency shall immediately submit the proposed initial regulations to the tribes for comment.*

(B) *Disapproval by the Association. If the Association disapproves of the proposed initial regulations, the Association shall provide a detailed, written response to the State Gaming Agency describing the Association’s objections. Not later than thirty days (30) after receipt of a disapproval response from the Association, the State Gaming Agency shall:*

(i) *consider the Association’s objections and prepare a detailed, written response to the Association’s objections; and*

(ii) *submit the re-adopted proposed regulations to the Association for reconsideration.*

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(iii) *In the event the Association fails to approve the proposed regulation upon reconsideration, the regulation shall not go into effect unless the State Gaming Agency secures a temporary restraining order or preliminary injunction pursuant to subdivision (b) of section 22949.71.*

(4) *The State Gaming Agency shall thereafter expeditiously adopt final regulations governing online sports wagering; provided, however, the State Gaming Agency shall not adopt final regulations with respect to online sports wagering before the expiration of thirty (30) days after submission of the proposed initial regulations to the tribes for comment, and after the consideration of the tribes' comments, if any.*

(i) *Chapter 3.5 (commencing with section 11340) of Part 1 of Division 3 of Title 2 of the California Government Code does not apply to any regulations adopted by the State Gaming Agency pursuant to this section.*

*22949.71. Enforcement Authority. Solely for purposes of online sports wagering offered pursuant to state law as contemplated by Chapter 38 of Division 8 of the Business and Professions Code, the State Gaming Agency shall have all power necessary to enforce the provisions of that chapter and the regulations governing online sports wagering adopted pursuant to section 22949.70.*

(a) *All actions to enforce Chapter 38 of Division 8 of the Business and Professions Code, or the regulations governing online sports wagering adopted pursuant to section 22949.70, against or with respect to any licensee shall be brought by the State Gaming Agency pursuant to the dispute resolution process set forth in section 22949.72.*

(b) *In the event the State Gaming Agency reasonably concludes there is an imminent threat of irreparable harm, the State Gaming Agency may seek a temporary restraining order or preliminary injunction, pending the outcome of the dispute resolution process set forth in section 22949.72.*

*22949.72. Dispute Resolution.*

(a) *Voluntary Resolution; Court Resolution. Solely for purposes of online sports wagering offered pursuant to state law as contemplated by Chapter 38 of Division 8 of the Business and Professions Code, and in recognition of the government-to-government relationship of the Indian tribes and the State, the parties shall make their best efforts to resolve disputes that arise under Chapter 38 of Division 8 of the Business and Professions Code, or the regulations governing online sports wagering adopted pursuant to section 22949.70, by good faith negotiations whenever possible. Therefore, without prejudice to the right of either a tribe or the State to seek injunctive relief against the other when circumstances are deemed to require immediate relief, a tribe and the State shall seek to resolve disputes by first meeting and conferring in good faith in order to foster a spirit of cooperation and efficiency in the administration and monitoring of the performance and compliance of the terms, provisions, and conditions of Chapter 38 of Division 8 of the Business and Professions Code, or the regulations governing online sports wagering adopted pursuant to section 22949.70, as follows:*

(1) *Either a tribe or the State shall give the other, as soon as possible after the event giving rise to the concern, a written notice specifying the issues to be resolved.*

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(2) *The tribe and the State shall meet and confer in a good faith attempt to resolve the dispute through negotiation not later than ten (10) days after receipt of the notice, unless both the tribe and the State agree in writing to an extension of time.*

(3) *If the dispute is not resolved to the satisfaction of the tribe and State within thirty (30) calendar days after the first meeting, the tribe or the State may seek to have the dispute resolved by an arbitrator in accordance with this section, but neither the tribe nor the State shall be required to agree to submit to arbitration.*

(4) *Disagreements that are not otherwise resolved by arbitration or other mutually acceptable means may be resolved in the United States District Court in the judicial district where the tribe's gaming facility is located, or in a United States District Court that is a proper venue under applicable law if the tribe does not operate a gaming facility, and the Ninth Circuit Court of Appeals, or if the federal courts lack jurisdiction, in any state court of competent jurisdiction and its related courts of appeal. The disputes to be submitted to court action include, but are not limited to, claims of violation of, or failure to implement, any provision of Chapter 38 of Division 8 of the Business and Professions Code, or the regulations governing online sports wagering adopted pursuant to section 22949.70. In no event may a tribe be precluded from pursuing any arbitration or judicial remedy against the State on the grounds that the tribe has failed to exhaust its state administrative remedies. Except in instances of imminent threat to the public health or safety, a tribe and the State shall make reasonable efforts to explore alternative dispute resolution avenues prior to resorting to judicial process.*

(b) *Arbitration Rules. Arbitration between the tribe and the State shall be conducted in accordance with policies and procedures of the Commercial Arbitration Rules of the American Arbitration Association, and shall be held on the tribe's land, or if unreasonably inconvenient under the circumstances, at such other location as the tribe and the State may agree. The tribe and the State shall each bear their own costs, attorneys' fees, and one half the costs and expenses of the American Arbitration Association and the arbitrator, unless the arbitrator rules otherwise. Only one neutral arbitrator may be named, unless the tribe or the State objects, in which case a panel of three (3) arbitrators (one of whom shall be selected by the tribe and one of whom shall be selected by the State) will be named. The provisions of Section 1283.05 of the California Code of Civil Procedure shall apply; provided that no discovery authorized by that section may be conducted without leave of the arbitrator. In the event the dispute resolution process is invoked by the State for a tribe's alleged non-compliance with Chapter 38 of Division 8 of the Business and Professions Code or regulations duly adopted pursuant to section 22949.70, any award of the arbitrator shall be limited to only require the tribe to take those steps necessary to bring the tribe into compliance with the regulations at issue and no further. The decision of the arbitrator shall be in writing, give reasons for the decision, and shall be binding; provided, however, the tribe may challenge the award to the extent it violates the scope of the arbitrator's authority. Judgment on the award may be entered in any federal court or state court having jurisdiction thereof.*

(c) *No Waiver or Preclusion of Other Means of Dispute Resolution. This section shall not be construed to waive, limit, or restrict any remedy that is otherwise available to either a tribe or the State, nor may this section be construed to preclude, limit, or restrict the ability of a tribe and the State to pursue, by mutual agreement, any other method of dispute resolution, including, but not limited to, mediation or utilization of a technical advisor to the Tribal Gaming Agency and State Gaming Agency; provided that neither the tribe nor the State shall be under any obligation to agree to such alternative dispute resolution.*



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22949.73. *Limited Waiver of State Sovereign Immunity. In the event that a dispute is to be resolved in federal court or a state court of competent jurisdiction as provided in this chapter, the State expressly consents to be sued therein and waive any immunity therefrom that it may have, provided that—*

(a) *The dispute is limited solely to issues arising from or related to Chapter 38 of Division 8 of the Business and Professions Code, or the regulations governing online sports wagering adopted pursuant to section 22949.70;*

(b) *No claim is made for monetary damages (for the avoidance of doubt, only injunctive, specific performance, including, but not limited to, enforcement of a provision of Chapter 38 of Division 8 of the Business and Professions Code, or the regulations governing online sports wagering adopted pursuant to section 22949.70, requiring payment of money to the State or Tribe or another party, or declaratory relief is sought); and*

(c) *No person or entity other than the tribe, or the entity wholly owned by the tribe, is a party to the action, unless failure to join a third party would deprive the court of jurisdiction; provided that nothing herein shall be construed to constitute a waiver of the sovereign immunity of the State in respect to any such third party.*

22949.74. *Limited Waiver of Tribal Sovereign Immunity. In order for a tribe, or an entity wholly owned by a tribe, to operate online sports wagering under state law pursuant to Chapter 38 of Division 8 of the Business and Professions Code, the tribe, or the entity wholly owned by the tribe, must elect to provide a limited waiver of the tribe's, or the wholly owned tribal entity's, sovereign immunity for purposes of disputes arising from or related to compliance with or enforcement of Chapter 38 of Division 8 of the Business and Professions Code and any implementing regulations duly adopted pursuant to section 22949.70.*

(a) *The limited waiver of sovereign immunity shall apply exclusively to the State, and no other party, solely for the limited purpose of—*

(1) *enforcing, as prescribed in section 22949.71, Chapter 38 of Division 8 of the Business and Professions Code and any implementing regulations duly adopted pursuant to section 22949.70; and*

(2) *with regard to any claim, sanction, or penalty arising out of the Chapter 38 of Division 8 of the Business and Professions Code and any implementing regulations duly adopted pursuant to section 22949.70.*

(b) *The remedy provided for in the waiver of sovereign immunity shall be limited to requiring the tribe, or the entity wholly owned by the tribe, to take the steps necessary to bring the online sports wagering operation or activity into compliance with Chapter 38 of Division 8 of the Business and Professions Code and the regulations duly adopted pursuant to section 22949.70.*

22949.75. *Not later than sixty (60) days after the State Gaming Agency receives a complete application, the State Gaming Agency shall issue a license to the applicant unless the background investigation the State Gaming Agency conducts discloses that the applicant has criminal history or unless other grounds sufficient to disqualify the applicant are apparent on the face of the application; provided, however a tribe that submits a complete application shall be presumed to be suitable for licensure and shall be issued a license to operate online sports wagering unless*

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*the State Gaming Agency secures a temporary restraining order or preliminary injunction from a court of competent jurisdiction as described in subdivision (b) of section 22949.71.*

*22949.76. Initial Implementation Costs.*

*(a) Upon the effective date of this chapter, \$50,000,000 shall be transferred from the Indian Gaming Special Distribution Fund to the California Gambling Control Commission for necessary expenses to implement online sports wagering under state law as authorized by Chapter 38 of Division 8 of the Business and Professions Code and the regulations governing online sports wagering adopted pursuant to section 22949.70.*

*(b) The amount transferred pursuant to subdivision (a) shall be reimbursed to the Indian Gaming Special Distribution Fund in equal, annual payments from the Fund established in subdivision (k) of Section 19 of Article IV of the California Constitution over the ten fiscal years subsequent to the effective date of this chapter.*

*Section 22949.77. Employee Licenses. The State Gaming Agency may issue sports wagering licenses to any applicants for an employee license who have a current, valid, and unrestricted tribal gaming license issued by a Tribal Gaming Agency.*

*Section 22949.78. Tribal Gaming Agencies. A State Gaming Agency may elect to contract with one or more Tribal Gaming Agencies to process, investigate, and analyze the operator's employee licensing applications. The State Gaming Agency shall issue provisions allowing for such participation by Tribal Gaming Agencies.*

### **SECTION 9. AMENDMENTS**

This Act shall be broadly construed to accomplish its purposes. The provisions of Section 4 amending Section 19 of Article IV of the California Constitution express the desire of the people of the State of California to further grant federally recognized Indian tribes exclusive rights to conduct and operate gaming on Indian lands in California. In recognition thereof, any state law intended to implement such amendments to Section 19 of Article IV of the California Constitution, or for any other purpose, that would have the effect of authorizing any other person or entity to conduct or operate such gaming in the manner specified therein or any expansion thereof, or to allow such gaming to be conducted or operated in any other place within the state other than as specified therein, shall require a measure to be submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution and adopted by the people to take effect. The statutory provisions added by this Act may be amended so long as such amendments are consistent with and further the intent of this Act by a statute that is passed by a two-thirds vote of the members of each house of the Legislature.

### **SECTION 10. SEVERABILITY**

The provisions of this Act are severable. If any portion, section, subdivision, paragraph, clause, sentence, phrase, word, or application of this Act is for any reason held to be invalid by a decision of any court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this Act. For the avoidance of doubt, and without restricting the broad application of this severability clause, if a determination is made by a court of competent jurisdiction as provided in section 22949.60 of Chapter 38 of Division 8 of the Business and Professions Code, the remaining provisions of this measure, including, but not limited to, the authorization for sports

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wagering, roulette, and games played with dice, will remain in effect, and such determination shall not render unlawful or invalid any gaming activity conducted by a federally recognized Indian tribe in accordance with applicable federal and state law. Further, the provisions of Section 11 regarding conflicting measures, including, but not limited to, the identification of competing all-or-nothing measures, shall remain in full force and effect regardless of whether any portion, section, subdivision, paragraph, clause, sentence, phrase, word, or application of this Act is held invalid for any reason. The people of the State of California hereby declare that they would have adopted this Act, and each and every portion, section, subdivision, paragraph, clause, sentence, phrase, word, and application not declared invalid or unconstitutional, without regard to whether any portion of this Act or application thereof would be subsequently declared invalid.

### **SECTION 11. CONFLICTING MEASURES**

(a) The voters hereby declare:

(1) The "California Solutions to Homelessness and Mental Health Support Act" (Initiative No. 21-0017A1) and this Act are not complementary and supplementary to each other. The "California Solutions to Homelessness and Mental Health Support Act" (Initiative No. 21-0017A1) and this Act are competing all-or-nothing alternatives.

(2) The "California Solutions to Homelessness, Public Education Funding, Affordable Housing and Reduction of Problem Gambling Act" (Initiative No. 21-0009A1) and this Act are not complementary and supplementary to each other. The "California Solutions to Homelessness, Public Education Funding, Affordable housing and Reduction of Problem Gambling Act" (Initiative No. 21-0009A1) and this Act are competing all-or-nothing alternatives.

(b) If this initiative measure is approved by the voters but superseded in whole or in part by any other conflicting measure approved by the voters at the same election, and such conflicting measure is later held invalid, this initiative measure shall be self-executing and given full force and effect.